

EXHIBIT B

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1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE MIDDLE DISTRICT OF ALABAMA
 3 NORTHERN DIVISION

4 ELIZABETH HORTON,

5 Plaintiff,

6 vs. CASE NUMBER
 7 2:06cv-526-MHT-TFM

8 DON WILLIAMS, individually and in his
 9 capacity as the Manager of National
 10 Seating and Mobility, Inc., NATIONAL
 11 SEATING AND MOBILITY, INC., GERALD
 12 SHOCKLEY, individually and in his
 13 capacity of a special agent of the
 14 Alabama Attorney General's Office,

15 Defendants.

16 * * * * *

17 DEPOSITION OF FELECIA SALARY
 18 BARROW, taken pursuant to stipulation
 19 and agreement before Barbara A. Howell,
 20 CCR, Commissioner for the State of
 21 Alabama at Large, ACCR No. 123, in the
 22 Bradley, Arant, Rose & White Conference
 23 Room, 401 Adams Avenue, Room 712,
 24 Montgomery, Alabama, on Wednesday,
 25 January 30, 2008, commencing at
 26 approximately 2:10 p.m.

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9 Memo Dated February 16, 2005,
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 11 with Attachments

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1 APPEARANCES

2 FOR THE PLAINTIFF:

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 10 105 Tallapoosa Street, Suite 200
 11 Montgomery, Alabama 36104

12 FOR DEFENDANT NATIONAL SEATING &
 13 MOBILITY:

14 Mr. Charles A. Stewart, III
 15 Ms. Quindal C. Evans
 16 BRADLEY, ARANT, ROSE & WHITE
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19 FOR DEFENDANT GERALD SHOCKLEY:

20 Mr. Jack Wallace, Jr.
 21 OFFICE OF THE ATTORNEY GENERAL
 22 State of Alabama
 23 11 South Union Street
 24 Montgomery, Alabama 36130

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1 STIPULATIONS

2 It is hereby stipulated and agreed
 3 by and between counsel representing the
 4 parties that the deposition of FELECIA
 5 SALARY BARROW is taken pursuant to the
 6 Federal Rules of Civil Procedure and
 7 that said deposition may be taken before
 8 Barbara A. Howell, Court Reporter and
 9 Commissioner for the State of Alabama at
 10 Large, without the formality of a
 11 commission; that objections to questions
 12 other than objections as to the form of
 13 the questions need not be made at this
 14 time but may be reserved for a ruling at
 15 such time as the deposition may be
 16 offered in evidence or used for any
 17 other purpose as provided for by the
 18 Federal Rules of Civil Procedure.

19 It is further stipulated and agreed
 20 by and between counsel representing the
 21 parties in this case that said
 22 deposition may be introduced at the
 23 trial of this case or used in any manner

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<p>1 by either party hereto provided for by</p> <p>2 the Federal Rules of Civil Procedure.</p> <p>3</p> <p>4 * * * * *</p> <p>5</p> <p>6 (Plaintiff's Exhibit #6 was</p> <p>7 marked for identification.)</p> <p>8 FELECIA SALARY BARROW</p> <p>9 The witness, having first been duly</p> <p>10 sworn or affirmed to speak the truth,</p> <p>11 the whole truth, and nothing but the</p> <p>12 truth, testified as follows:</p> <p>13 THE REPORTER: Usual federal</p> <p>14 stipulations?</p> <p>15 MS. NICKSON: Yes.</p> <p>16 MR. STEWART: Sure.</p> <p>17 MR. WALKER: Yes.</p> <p>18 EXAMINATION</p> <p>19 BY MS. NICKSON:</p> <p>20 Q. Would you state your name for the</p> <p>21 record, please.</p> <p>22 A. Felecia Salary Barrow.</p> <p>23 Q. Ms. Barrow, I'm Attorney Deborah</p>	<p>1 for Medicaid?</p> <p>2 A. From 1999 until 2005.</p> <p>3 Q. And what was your position there?</p> <p>4 A. I held several positions. Do you want</p> <p>5 all of those in . . .</p> <p>6 Q. Yes, ma'am.</p> <p>7 A. Okay. I was a Medicaid Administrator I</p> <p>8 with the medical services division in</p> <p>9 1999. In 2001, I became the associate</p> <p>10 director in the long-term care</p> <p>11 division. And in 2003, I moved to the</p> <p>12 prior approval unit, which was within</p> <p>13 the medical director's office, where I</p> <p>14 was associate director.</p> <p>15 Q. All right. And why did you leave the</p> <p>16 Medicaid Agency?</p> <p>17 A. Oh, I left because of a better job</p> <p>18 opportunity.</p> <p>19 Q. All right. More money?</p> <p>20 A. Yes. Yes.</p> <p>21 Q. And during your employment with the</p> <p>22 Medicaid Agency, did you address any</p> <p>23 concerns regarding infractions or</p>
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<p>1 Nickson and I represent Elizabeth</p> <p>2 Horton in this case. Elizabeth filed a</p> <p>3 lawsuit and she sued three people or</p> <p>4 persons -- one is a corporation --</p> <p>5 Gerald Shockley, Don Williams, and</p> <p>6 National Seating & Mobility. And it's</p> <p>7 concerning claims around what she</p> <p>8 contends is a wrongful arrest --</p> <p>9 A. Okay.</p> <p>10 Q. -- that was made of her regarding some</p> <p>11 alleged allegations that she made</p> <p>12 against National Seating & Mobility.</p> <p>13 Are you familiar with Elizabeth Horton?</p> <p>14 A. Yes.</p> <p>15 Q. And what do you do for a living?</p> <p>16 A. I'm currently the program coordinator</p> <p>17 with the Steps to a Healthier Alabama</p> <p>18 Program, Montgomery Area Community</p> <p>19 Wellness Coalition.</p> <p>20 Q. And did you work for Medicaid in the</p> <p>21 past?</p> <p>22 A. Yes.</p> <p>23 Q. And what period of time did you work</p>	<p>1 alleged infractions by National</p> <p>2 Seating & Mobility?</p> <p>3 A. Yes.</p> <p>4 Q. What, if anything, can you remember?</p> <p>5 A. Just basically broad -- I'll generalize</p> <p>6 because I don't remember a lot of</p> <p>7 details. But there were several</p> <p>8 instances where we received prior</p> <p>9 approval requests -- and I don't know</p> <p>10 if everyone understands the process</p> <p>11 that we go through --</p> <p>12 Q. Okay.</p> <p>13 A. -- or that we would go through with a</p> <p>14 prior approval request.</p> <p>15 Q. Okay. If we can stop right there.</p> <p>16 Would you explain the prior approval</p> <p>17 process?</p> <p>18 A. Okay. With durable medical equipment</p> <p>19 companies, depending on what their</p> <p>20 requests were for, basically -- we'll</p> <p>21 just take wheelchairs, for example. If</p> <p>22 they had clients who were in need of</p> <p>23 wheelchairs or any durable medical</p>

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<p>1 equipment that required a prior</p> <p>2 authorization before they could</p> <p>3 actually deliver that equipment to the</p> <p>4 client and be reimbursed through</p> <p>5 Medicaid, they would have to go through</p> <p>6 a process of requesting that we review</p> <p>7 justification for providing that</p> <p>8 equipment to the Medicaid client. So</p> <p>9 once we reviewed that information, we</p> <p>10 would then put the request in a</p> <p>11 conditionally approved status, and that</p> <p>12 would be pending their actual delivery</p> <p>13 of that equipment. They would then</p> <p>14 have to get the client's signature and</p> <p>15 the date. We would give them a certain</p> <p>16 amount of time in order to deliver that</p> <p>17 equipment and, once they delivered it,</p> <p>18 submit to us a delivery ticket; and we</p> <p>19 would go into the system and approve</p> <p>20 the PA request. Once it's approved,</p> <p>21 they can then file for reimbursement</p> <p>22 from Medicaid for that equipment.</p> <p>23 Q. Now, what time frame are we -- do you</p>	<p>1 manufacturer's error or delay, they</p> <p>2 would then communicate that to us. We</p> <p>3 would go in the system and note that</p> <p>4 there was an extension granted; and the</p> <p>5 extensions would be granted for thirty,</p> <p>6 sixty, or ninety days. I think that's</p> <p>7 how we did it at the time. But once</p> <p>8 those were allowed, then they could</p> <p>9 then go through the process and we</p> <p>10 would note it to the file.</p> <p>11 If they did not go through that</p> <p>12 process of requesting an extension,</p> <p>13 then we would send that information to</p> <p>14 the medical director to get some type</p> <p>15 of direction as to what we need to do.</p> <p>16 Policy would dictate that we would</p> <p>17 decline their request. But that's just</p> <p>18 the process that we went through.</p> <p>19 Q. And the process that you just</p> <p>20 explained, would that process apply</p> <p>21 to -- would you call National Seating &</p> <p>22 Mobility, would you call them a vendor?</p> <p>23 A. Or a DME provider, Medicaid provider.</p>
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<p>1 look at? Where does the date begin to</p> <p>2 run for the approval process?</p> <p>3 A. Gosh, that's been a while since I dealt</p> <p>4 with policy. From the time that they</p> <p>5 submit their request, we would allow</p> <p>6 staff at Medicaid approximately sixty</p> <p>7 days, I do believe, to review the</p> <p>8 request and get some type of answer</p> <p>9 back to the client or the DME company.</p> <p>10 And once they got their information</p> <p>11 back, they had, I believe, sixty days</p> <p>12 from that time frame in order to</p> <p>13 deliver that equipment. If they were</p> <p>14 outside of that time frame or if they</p> <p>15 discovered that something was going</p> <p>16 wrong with the order, they could call</p> <p>17 us and ask us to extend that time.</p> <p>18 But for an extension to be</p> <p>19 granted, we would have to have</p> <p>20 reasonable justification for doing so.</p> <p>21 If -- if maybe the client maybe missed</p> <p>22 clinic, if they did not get a chance to</p> <p>23 get the equipment in because of a</p>	<p>1 Q. But if someone referred to them as a</p> <p>2 vendor --</p> <p>3 A. Yes.</p> <p>4 Q. -- that would be --</p> <p>5 A. That would be accurate.</p> <p>6 Q. All right. I'm going to show you what</p> <p>7 we'll mark as Plaintiff's Exhibit #7.</p> <p>8 (Plaintiff's Exhibit #7 was</p> <p>9 marked for identification.)</p> <p>10 Q. If you would, just identify that</p> <p>11 document for the record.</p> <p>12 A. Okay. This is the information that we</p> <p>13 have in our provider manual that</p> <p>14 basically outlines Medicaid's policy</p> <p>15 with regard to durable medical</p> <p>16 equipment.</p> <p>17 Q. And it's just the policy that you were</p> <p>18 just referring to?</p> <p>19 A. Yes.</p> <p>20 Q. And each vendor was required to comply</p> <p>21 with the policy?</p> <p>22 A. That's correct.</p> <p>23 Q. All right. Now, let's talk about --</p>

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<p>1 you've explained the process for</p> <p>2 approval. Now, let's direct our</p> <p>3 attention on National Seating &</p> <p>4 Mobility.</p> <p>5 A. Yes.</p> <p>6 Q. Do you remember any particular problems</p> <p>7 with them?</p> <p>8 MR. STEWART: Object to the</p> <p>9 form.</p> <p>10 MR. WALKER: Object to the</p> <p>11 form.</p> <p>12 A. Yes. With National Seating, they --</p> <p>13 initially, when I took over the unit</p> <p>14 and was applying the policy across the</p> <p>15 board, we had several employees that</p> <p>16 were with National Seating that every</p> <p>17 time someone left, a new person would</p> <p>18 come aboard and they would request</p> <p>19 several extensions on equipment. And</p> <p>20 we would finally get to a place where</p> <p>21 we would try to get justification from</p> <p>22 them. Most of the time, the</p> <p>23 justification that we received was that</p>	<p>1 MR. WALKER: Object to the</p> <p>2 form.</p> <p>3 Q. Okay.</p> <p>4 A. So we would then, any time there was a</p> <p>5 call from a parent -- because the</p> <p>6 parent was told that the delay was</p> <p>7 always on Medicaid, that Medicaid had</p> <p>8 not completed all the paperwork;</p> <p>9 Medicaid, we're waiting on Medicaid.</p> <p>10 They were told this by National</p> <p>11 Seating, so they would in turn call us.</p> <p>12 So as the parents would call in, we</p> <p>13 would have that opportunity to find out</p> <p>14 if they were actually missing clinic,</p> <p>15 if the children were missing clinic.</p> <p>16 So the -- we would ask and the parents</p> <p>17 would always say, you know, no, I would</p> <p>18 never miss a clinic, this child needs</p> <p>19 this device to go to school so no, we</p> <p>20 would not miss clinic.</p> <p>21 Q. Let me stop you right there. What</p> <p>22 you're saying is National Seating &</p> <p>23 Mobility would tell your department --</p>
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<p>1 the children did not go to clinic; Mom</p> <p>2 didn't take the child to clinic. So,</p> <p>3 therefore, they were not able to fit</p> <p>4 the child for whatever the device was</p> <p>5 and that was the delay. So we --</p> <p>6 Q. Let me stop you right there.</p> <p>7 A. Okay.</p> <p>8 Q. Did you all investigate any of those</p> <p>9 delays, excuses?</p> <p>10 A. Well, their -- when they became very</p> <p>11 frequent, we would send -- I would do a</p> <p>12 memo and I would send it to our</p> <p>13 investigations unit through our medical</p> <p>14 director, always copying her on all of</p> <p>15 it. Any time that we had those</p> <p>16 continuous excuses -- because we just</p> <p>17 thought it was unreasonable to think</p> <p>18 that every time the children were</p> <p>19 missing clinic.</p> <p>20 Q. Did you consider it as a red flag?</p> <p>21 A. Yes, we did.</p> <p>22 MR. STEWART: Object to the</p> <p>23 form.</p>	<p>1 tell the parents that Medicaid --</p> <p>2 A. -- was the delay.</p> <p>3 MR. STEWART: Let her finish</p> <p>4 the question, please,</p> <p>5 ma'am, before you give</p> <p>6 an answer --</p> <p>7 THE WITNESS: I'm sorry.</p> <p>8 MR. STEWART: -- because the</p> <p>9 lawyers at this table</p> <p>10 need to object to some</p> <p>11 of these questions. And</p> <p>12 so if you can just let</p> <p>13 her finish the question,</p> <p>14 we can get our</p> <p>15 objections in, and then</p> <p>16 you answer.</p> <p>17 THE WITNESS: Okay.</p> <p>18 Q. All right. The problem is, is that</p> <p>19 with this, if two of us are talking at</p> <p>20 the same time, she can only record one.</p> <p>21 Okay?</p> <p>22 Now, what I started to ask you,</p> <p>23 what you're saying is that during your</p>

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<p>1 employment with Medicaid Agency, that</p> <p>2 you had parents to call in asking about</p> <p>3 the delay in them receiving their</p> <p>4 equipment?</p> <p>5 A. Yes.</p> <p>6 Q. And they were told by National</p> <p>7 Seating & Mobility that the delay was</p> <p>8 caused by Medicaid?</p> <p>9 MR. STEWART: Object to the</p> <p>10 form.</p> <p>11 A. Yes.</p> <p>12 Q. Am I correct? Was --</p> <p>13 A. Yes.</p> <p>14 Q. -- that what you said? Okay. And the</p> <p>15 callers, by them calling, it would give</p> <p>16 you the opportunity to make an inquiry.</p> <p>17 A. Yes.</p> <p>18 Q. Am I correct?</p> <p>19 A. Yes.</p> <p>20 Q. And your inquiry to the caller would be</p> <p>21 concerning whether or not they had</p> <p>22 missed what appointment?</p> <p>23 A. Yes. Their clinic appointment.</p>	<p>1 form.</p> <p>2 A. We had dates in the system that</p> <p>3 indicated when the PA request came in,</p> <p>4 when it was -- if it was placed on a</p> <p>5 conditional approval status, when that</p> <p>6 happened. If there was a note to the</p> <p>7 file that there was a request for an</p> <p>8 extension, all of that information</p> <p>9 always appeared in the computer system.</p> <p>10 Q. And approximately how many calls did</p> <p>11 you answer, if you can remember?</p> <p>12 A. I honestly don't remember.</p> <p>13 Q. Was it less than ten or --</p> <p>14 MR. STEWART: Object to the</p> <p>15 form.</p> <p>16 Q. -- more than ten?</p> <p>17 MR. WALKER: Object to the</p> <p>18 form.</p> <p>19 A. More than ten.</p> <p>20 Q. It was more than ten people that</p> <p>21 complained?</p> <p>22 MR. STEWART: Object to the</p> <p>23 form.</p>
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<p>1 Q. Their clinic appointment. So in fact,</p> <p>2 what National Seating & Mobility was</p> <p>3 telling you and your department was</p> <p>4 fraudulent.</p> <p>5 MR. WALKER: Object to the</p> <p>6 form.</p> <p>7 MR. STEWART: Object to</p> <p>8 form.</p> <p>9 Q. Am I correct?</p> <p>10 MR. STEWART: Object to</p> <p>11 form.</p> <p>12 MR. WALKER: Same objection.</p> <p>13 A. I would say that what they were telling</p> <p>14 the client was not true based on what</p> <p>15 we had in our computer system.</p> <p>16 Q. Oh, okay. So what would be the</p> <p>17 difference of what you were indicating</p> <p>18 in your computer system and what</p> <p>19 National Seating & Mobility was telling</p> <p>20 the caller?</p> <p>21 MR. STEWART: Object to</p> <p>22 form.</p> <p>23 MR. WALKER: Object to the</p>	<p>1 MR. WALKER: Object to the</p> <p>2 form.</p> <p>3 A. Yes.</p> <p>4 Q. And it was more than ten people that</p> <p>5 you noted that National Seating &</p> <p>6 Mobility was giving that caller wrong</p> <p>7 information?</p> <p>8 MR. STEWART: Object to</p> <p>9 form.</p> <p>10 MR. WALKER: Object to the</p> <p>11 form.</p> <p>12 A. That's correct.</p> <p>13 Q. And what, if anything, did you do at</p> <p>14 that point?</p> <p>15 A. At that point, sometimes we would</p> <p>16 contact National Seating, the employees</p> <p>17 there, to find out, you know, what was</p> <p>18 going on with that client; to inform</p> <p>19 that we had this client's parent to</p> <p>20 call; they were told that it was</p> <p>21 Medicaid's delay; however, this is what</p> <p>22 our computer is showing. And that's</p> <p>23 basically what we would do, is just</p>

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<p>1 call to let them know that it was not a</p> <p>2 Medicaid delay; however, it was delay</p> <p>3 on their end.</p> <p>4 Q. All right. If you all would not</p> <p>5 approve the request submitted to you by</p> <p>6 National Seating & Mobility, it would</p> <p>7 result in the loss of income for them.</p> <p>8 Am I correct?</p> <p>9 MR. STEWART: Object to</p> <p>10 form.</p> <p>11 A. That's correct.</p> <p>12 Q. All right. Let me -- did you ever meet</p> <p>13 Elizabeth Horton?</p> <p>14 A. Yes, I did.</p> <p>15 Q. Where did you meet her?</p> <p>16 A. I actually went to National Seating &</p> <p>17 Mobility.</p> <p>18 Q. For what purpose?</p> <p>19 A. I wanted to find out what their process</p> <p>20 was. We -- we tried to provide</p> <p>21 technical assistance whenever we can to</p> <p>22 providers when there seems to be quite</p> <p>23 a bit of delay in processing PA</p>	<p>1 Q. -- at the company?</p> <p>2 A. Yes.</p> <p>3 Q. Okay.</p> <p>4 A. And I went by just to meet Elizabeth</p> <p>5 and to just look at the system that</p> <p>6 they had in place. She did introduce</p> <p>7 me to Mr. Williams. And we proceeded</p> <p>8 to look in her area to see where she</p> <p>9 kept her files, what types of PA</p> <p>10 requests were already pending, you</p> <p>11 know, what she needed help on in order</p> <p>12 to get them through the system, because</p> <p>13 what our main focus was, was getting</p> <p>14 those requests in so that we could</p> <p>15 process them and would not be behind.</p> <p>16 Q. And how long did you stay at the</p> <p>17 location on that date?</p> <p>18 A. I don't recall, but it could not -- I</p> <p>19 don't think it was over an hour or two.</p> <p>20 Q. What kind of relationship did you and</p> <p>21 Ms. Horton have?</p> <p>22 A. Well, we had a friendly relationship.</p> <p>23 It was nothing different from any other</p>
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<p>1 requests. So since they were in</p> <p>2 Montgomery -- even though we were quite</p> <p>3 understaffed and we're not able to go</p> <p>4 all across the state, since they were</p> <p>5 in Montgomery, I told Ms. Horton that I</p> <p>6 would like to come by just to look at</p> <p>7 their files, look at their system to</p> <p>8 see what they had in place. And she</p> <p>9 said okay.</p> <p>10 Q. Is that within the job description or</p> <p>11 job duties and responsibilities that</p> <p>12 you had as an associate or assistant</p> <p>13 director?</p> <p>14 A. Yes.</p> <p>15 Q. And you can proceed.</p> <p>16 A. So I would -- I went to National</p> <p>17 Seating & Mobility, met Ms. Horton for</p> <p>18 the first time.</p> <p>19 Q. Was this in 2004?</p> <p>20 A. I don't remember.</p> <p>21 Q. Was it during Ms. Horton's</p> <p>22 employment --</p> <p>23 A. Yes, it was.</p>	<p>1 vendor that we would come in contact</p> <p>2 with on a, you know, continuous basis.</p> <p>3 Q. If someone told an investigator that</p> <p>4 you and Ms. Horton were friends, would</p> <p>5 they be lying?</p> <p>6 MR. WALKER: Object to the</p> <p>7 form.</p> <p>8 A. I would not consider us friends.</p> <p>9 Acquaintances perhaps, simply because</p> <p>10 of the nature of dealing with one</p> <p>11 another on a daily basis.</p> <p>12 Q. So you knew her in the professional</p> <p>13 capacity?</p> <p>14 A. Yes.</p> <p>15 Q. Did you ever attend a concert with her?</p> <p>16 A. No, I didn't. She had informed me that</p> <p>17 there was a concert that was happening</p> <p>18 in the city. And she did not attend</p> <p>19 the concert; however, I did, with a</p> <p>20 friend of mine.</p> <p>21 Q. What was your understanding of Don</p> <p>22 Williams' position with National</p> <p>23 Seating & Mobility at that time?</p>

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<p>1 A. At that time, as I understood it, he</p> <p>2 was basically a technician. He would</p> <p>3 help to put the equipment together and</p> <p>4 help fit the clients with their</p> <p>5 equipment.</p> <p>6 Q. So he did not have the power to hire</p> <p>7 and fire, as you understand?</p> <p>8 MR. WALKER: Object to the</p> <p>9 form.</p> <p>10 MR. STEWART: Same</p> <p>11 objection.</p> <p>12 A. As I understood it, no.</p> <p>13 Q. All right. If Mr. Williams said he was</p> <p>14 a technician, you don't have any reason</p> <p>15 to doubt that, do you?</p> <p>16 A. No.</p> <p>17 Q. All right. Did you ever talk to a</p> <p>18 young lady by the name of Chaseley</p> <p>19 Weeks?</p> <p>20 A. Yes.</p> <p>21 Q. Who is she?</p> <p>22 A. She was a former employee of National</p> <p>23 Seating & Mobility. We had dealt with</p>	<p>1 Q. Let me show you what I have marked as</p> <p>2 Plaintiff's Exhibit #3.</p> <p>3 MR. WALKER: Deborah, which</p> <p>4 one is that? That's</p> <p>5 the -- oh, okay. Never</p> <p>6 mind. I know what it</p> <p>7 is. Thanks.</p> <p>8 (Brief pause while witness</p> <p>9 reviews document)</p> <p>10 Q. Okay. Do you remember writing that</p> <p>11 memo?</p> <p>12 A. Yes.</p> <p>13 Q. And when you wrote this memo, what was</p> <p>14 your intent?</p> <p>15 A. Basically, to inform my director that</p> <p>16 clinic dates were missing and inform of</p> <p>17 the information that was provided by</p> <p>18 the PT.</p> <p>19 Q. Now I'm going to show you what I've</p> <p>20 marked as Plaintiff's Exhibit #6. If</p> <p>21 you would, review that document. The</p> <p>22 top memo is probably the same as</p> <p>23 Plaintiff's Exhibit #3, but if you</p>
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<p>1 Chaseley prior to Elizabeth coming on</p> <p>2 board, I believe.</p> <p>3 Q. Did Chaseley make any complaints or</p> <p>4 talk about any infractions --</p> <p>5 A. Not to me.</p> <p>6 MR. WALKER: Object to the</p> <p>7 form.</p> <p>8 Q. Have you ever been told that anybody</p> <p>9 stated that Emily Williams advised one</p> <p>10 of the physical therapists not to place</p> <p>11 dates on prescriptions?</p> <p>12 MR. STEWART: Object to the</p> <p>13 form.</p> <p>14 MR. WALKER: Object to the</p> <p>15 form.</p> <p>16 A. I believe that we did get a phone call</p> <p>17 from a therapist. One of my staff</p> <p>18 members, one of my nurse reviewers, had</p> <p>19 received a phone call and we were</p> <p>20 questioning the date. She questioned</p> <p>21 the date being missing. And he</p> <p>22 informed her that they were told not to</p> <p>23 put dates on the forms.</p>	<p>1 would look at the attachments to</p> <p>2 Plaintiff's Exhibit #6.</p> <p>3 (Brief pause while witness</p> <p>4 reviews document)</p> <p>5 A. Okay.</p> <p>6 Q. Now, in your memo -- and I'll just</p> <p>7 reference Plaintiff's Exhibit #6 --</p> <p>8 your first statement in paragraph 1,</p> <p>9 you say, Please find attached exhibits</p> <p>10 of wheelchair assessments that have</p> <p>11 been submitted by National Seating &</p> <p>12 Mobility-Montgomery that were missing</p> <p>13 the clinic dates. And I'm going to</p> <p>14 show you once again the attachments to</p> <p>15 Plaintiff's Exhibit #6, which is your</p> <p>16 memo dated February 16, 2005. Now, is</p> <p>17 this an example --</p> <p>18 A. Yes.</p> <p>19 Q. -- of clinic dates missing?</p> <p>20 A. Yes.</p> <p>21 Q. Is this a violation of the policy?</p> <p>22 MR. STEWART: Object to</p> <p>23 form.</p>

7 (Pages 25 to 28)

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1 A. Yes.	1 foreign experience for
2 Q. Now, what advantage would National	2 most people.
3 Seating & Mobility have by not dating	3 MS. NICKSON: Okay. Now,
4 these clinic dates?	4 what I'm going to also
5 MR. STEWART: Object to the	5 ask is that counsel wait
6 form.	6 till I finish the
7 MR. WALKER: Object to the	7 question.
8 form.	8 MR. WALKER: Fair.
9 A. When there is a clinic held and the	9 MR. STEWART: Well, we'd
10 date that they make the assessment of	10 like to.
11 the client, they have a certain time	11 Q. (By Ms. Nickson) All right. Let me
12 frame in order to get the PA request	12 restate this. By not dating this form,
13 in.	13 it's an advantage to National Seating &
14 Q. Now, who are "they"?	14 Mobility?
15 A. The vendor.	15 MR. STEWART: Object to the
16 Q. Okay. And the vendor being?	16 form.
17 A. National Seating & Mobility.	17 MR. WALKER: Object to the
18 Q. Okay.	18 form.
19 A. And if there is no date listed on the	19 A. Yes.
20 clinic assessment form, then we have no	20 Q. And what is that advantage?
21 way of judging from whatever point to	21 MR. STEWART: Object to the
22 thirty days later when that PA request	22 form.
23 should have come to the agency.	23 MR. WALKER: Same objection.
Page 30	Page 32
1 Q. So by leaving this date blank, then	1 A. That the vendor, National Seating &
2 National Seating & Mobility would be in	2 Mobility, would be able to hold a
3 position to alter the time line of	3 request for an unlimited period of time
4 which they are required --	4 and still submit it to the Medicaid
5 MR. WALKER: Object to the	5 Agency without us being able to verify
6 form.	6 the date in which the assessment was
7 MR. STEWART: Object to the	7 actually done.
8 form.	8 Q. And is this what you all consider as
9 A. Yes.	9 fraudulent activity?
10 Q. -- to get the information --	10 MR. STEWART: Object to the
11 A. Yes.	11 form.
12 Q. -- to you?	12 A. We consider --
13 MR. WALKER: Object to the	13 MR. WALKER: Object to the
14 form.	14 form.
15 MR. STEWART: Object to the	15 A. I would say that it was inappropriate
16 form. Please, ma'am,	16 in order for them to leave off dates.
17 let her finish the	17 It goes against policy.
18 question; and once she's	18 Q. All right. Now, Plaintiff's
19 finished, we may have an	19 Exhibit #6, the memo states that two of
20 objection and then --	20 the assessments were conducted by Gerry
21 THE WITNESS: I apologize.	21 Rodgers, of physical therapy, and one
22 MR. STEWART: That's okay.	22 of Michael Maddox, RPT, both of
23 And I know it's a	23 Children's Rehab Services. Okay?

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1 Teresa Surles, a registered nurse, 2 questioned the assessments and was told 3 by Gerry Rodgers to get the dates from 4 Emily at National Seating. Now, is it 5 appropriate for Emily at National 6 Seating to give dates to place -- 7 MR. STEWART: Object to 8 form. 9 Q. -- for clinic dates? 10 MR. WALKER: Object to the 11 form. 12 MR. STEWART: Object to 13 form. 14 A. As I understood it, Emily was the 15 person who would be working along with 16 the PT in clinic with the client. So 17 it would be appropriate for her to 18 provide a date. 19 Q. So this Children's Rehabilitation 20 Service report of visit, would Emily 21 provide a date for this visit? 22 A. Yes, it would be appropriate for her to 23 do so.	1 MR. STEWART: Object to the 2 form. 3 MR. WALKER: Object to the 4 form. 5 A. Yes, it is. 6 Q. Was this one of the complaints that 7 Elizabeth had against the company, 8 failure for them to place dates? 9 MR. STEWART: Object to the 10 form. 11 A. I do recall her mentioning that there 12 were dates missing from forms. 13 Q. Did she ever tell you that they wanted 14 her to fill in some of these dates? 15 MR. STEWART: Object to 16 form. 17 A. I don't recall if they were clinic 18 dates that they wanted her to fill in. 19 Q. But do you recall her saying they 20 wanted her to fill in any dates -- 21 A. Yes. 22 Q. -- on any of the forms? 23 A. Yes.
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1 Q. The next sentence: I informed Teresa 2 that the clinic dates should be kept at 3 CRS where the assessment was conducted. 4 So in this case, did they say Emily had 5 the date? 6 A. Teresa was told by Gerry Rodgers to get 7 the date from Emily. 8 Q. Then you said, Teresa, under my 9 direction, contacted CRS to get the 10 clinic date instead of Emily. Jackie, 11 parenthesis, CRS, informed Teresa that 12 the date of the clinic appointment was 13 July 20th, '04. The PA request was 14 submitted in February '05. What's 15 wrong with those dates? 16 MR. STEWART: Object to the 17 form. 18 A. They would be out of date, according to 19 the policy. 20 Q. So if that clinic date was July 20th, 21 '04, and they submitted this request 22 February '05, is that against the 23 policy?	1 Q. And what dates were those? 2 A. Those would be dates on delivery 3 tickets. 4 Q. And did she fill them in? 5 MR. STEWART: Object to the 6 form. 7 MR. WALKER: Same objection. 8 A. I don't recall. I can state that when 9 we received -- 10 MR. STEWART: Excuse me. 11 There's no question. 12 Q. Okay. What else do you remember? 13 A. When we received the request and the 14 delivery tickets, they had dates on 15 them. 16 Q. But you're saying Elizabeth Horton had 17 said that they would have delivery 18 tickets not dated? 19 MR. STEWART: Object to the 20 form. 21 A. Yes. 22 Q. Would you not date delivery tickets 23 to -- what would be the purpose in not

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1 dating the delivery tickets?	1 that Michael Maddox?
2 MR. WALKER: Object to the	2 A. Yes.
3 form.	3 Q. Who is he?
4 MR. STEWART: Object to the	4 A. He's a physical therapist.
5 form.	5 Q. And placed to call to the physical
6 A. If a vendor does not put a date or have	6 therapist to find out why the date was
7 the client date a delivery ticket, it	7 missing. Could you read the physical
8 basically does not give the Medicaid	8 therapist's response in the record?
9 Agency any indication that the	9 MR. STEWART: Object to
10 equipment was delivered in the time	10 form.
11 frame allowed by policy.	11 A. Maybe we're not supposed to do this,
12 Q. And failure to deliver the equipment in	12 but I never put dates on the
13 a timely manner, what would be the	13 assessments or the prescriptions
14 adverse consequence?	14 because it messes up the vendor, like
15 MR. STEWART: Object to the	15 we're on a time clock.
16 form.	16 Q. So what is he saying there?
17 A. It goes against policy. And that would	17 A. He's basically indicating that if they
18 have been left up to the directors at	18 put the date on the form, then they
19 the agency as to what the consequence	19 would be held to the time frame allowed
20 would be.	20 in the Medicaid policy to get those
21 Q. All right. Now, to continue reading in	21 requests in.
22 the second paragraph for Plaintiff's	22 Q. And is that an infraction when people
23 Exhibit #6, it says, Subsequent fax was	23 fail to place dates?
Page 38	Page 40
1 received from Gerry Rodgers indicating	1 MR. STEWART: Object to
2 that the assessment was reviewed on	2 form.
3 2/15/05 and was still okay. Then you	3 MR. WALKER: Object to the
4 said, I conferred with Teresa and	4 form.
5 Debbie and thought we needed to update	5 A. Yes, because it goes against policy.
6 the clinic notes telling us current	6 Q. And is it misleading the --
7 condition of the client.	7 MR. STEWART: Object to the
8 Then on another client, both the	8 form.
9 physician's note of medical necessity	9 MR. WALKER: Object to the
10 and the PT assessment were lacking	10 form. Sorry. Go ahead.
11 dates. So you're saying in addition to	11 Q. Is it misleading the Medicaid Agency?
12 the two that's attached, you found some	12 MR. WALKER: Object to the
13 other dates --	13 form.
14 MR. STEWART: Object to the	14 MR. STEWART: Object to the
15 form.	15 form.
16 Q. -- missing. Is that what you're saying	16 A. Yes.
17 there?	17 Q. And, actually, is it fair to say that
18 MR. STEWART: Object to the	18 it's fraud?
19 form.	19 MR. WALKER: Object to the
20 A. On one other client.	20 form.
21 Q. Then the next-to-last paragraph, you	21 MR. STEWART: Object to the
22 state that Teresa came across another	22 form.
23 assessment completed by M. Maddox. Is	23 A. Yes.

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1 Q. It is odd that on the assessments --	1 is this?
2 reading from Plaintiff's Exhibit #6	2 MS. NICKSON: This is
3 again, continuing in paragraph 3. It	3 Plaintiff's Exhibit #8.
4 is odd that on the assessments that	4 MR. WALKER: Thank you.
5 Mr. Maddox has done for other vendors	5 MS. NICKSON: Bates Drab 13,
6 have a date on them but the ones done	6 page 13.
7 for National Seating do not have dates.	7 Q. The complaint made by Ms. Horton was
8 What was odd about that?	8 made when, if you know?
9 A. Because he put the dates in with other	9 A. I don't remember.
10 vendors, clients.	10 Q. All right. Look at the date on that
11 Q. Did Mr. Maddox know, if you know, Don	11 form, top right-hand corner, I think.
12 and Emily Williams?	12 Would you state the date for the
13 A. I'm sorry. Could you --	13 record?
14 Q. Did they have a personal relationship	14 A. This is August 2nd, '04.
15 with Mr. Maddox?	15 Q. And your memo in Plaintiff's Exhibit #6
16 A. No, not Mr. Maddox.	16 is dated what date?
17 Q. How about Mr. Rodgers?	17 A. February 16th of '05.
18 A. Yes.	18 Q. So, now, this form, assuming that this
19 Q. They knew each other outside the	19 is Ms. Horton's complaint, what was the
20 workplace?	20 alleged complaint by Ms. Horton?
21 A. Yes.	21 MR. STEWART: Object to
22 Q. They were friends?	22 form.
23 A. Yes. That's what we were told.	23 A. The allegation here is for fraudulent
Page 42	Page 44
1 Q. Who told you that?	1 billing activities.
2 A. Mr. Rodgers.	2 Q. And failure to put in dates, would that
3 Q. Now, this last sentence in paragraph --	3 be connected to the billings?
4 in the third paragraph, Plaintiff's	4 MR. STEWART: Object to the
5 Exhibit #6, you said, This was the same	5 form.
6 information that was reported by former	6 A. That would be connected to billing.
7 National Seating employee, Elizabeth	7 Q. All right. So if they manipulate
8 Horton.	8 dates -- if National Seating &
9 A. Yes.	9 Mobility, Don Williams, Emily Williams,
10 Q. So Elizabeth Horton had reported the	10 were manipulating dates on these clinic
11 same information that you witnessed	11 dates and the delivery dates, that
12 firsthand.	12 affects billing --
13 A. Yes.	13 A. Yes.
14 Q. So based on what Ms. Horton had	14 MR. STEWART: Object to the
15 reported and what you had reviewed, did	15 form.
16 you request an investigation?	16 MR. WALKER: Object to the
17 A. Yes, I did.	17 form.
18 Q. Now, I'm going to show you what we'll	18 Q. -- and would amount to fraudulent
19 mark as Plaintiff's Exhibit #8.	19 billing practices?
20 (Plaintiff's Exhibit #8 was	20 MR. WALKER: Object to the
21 marked for identification.)	21 form.
22 MR. WALKER: I'm sorry,	22 MR. STEWART: Object to the
23 Deborah. Which exhibit	23 form.

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<p>1 A. Yes.</p> <p>2 Q. All right. I'm just going to ask you</p> <p>3 about this because I don't know myself</p> <p>4 what that means. You may recognize</p> <p>5 that screen. I'm not even sure if I'm</p> <p>6 going to admit that as an exhibit. Is</p> <p>7 that some kind of computer screen or</p> <p>8 something maybe?</p> <p>9 A. Yes.</p> <p>10 Q. If you don't recognize it, that's fine.</p> <p>11 Do you recognize that?</p> <p>12 A. Yes.</p> <p>13 Q. Well, what is this document?</p> <p>14 A. This is their provider eligibility</p> <p>15 screen, which allows us to put in a</p> <p>16 provider number and bring up the</p> <p>17 information, basically, on the</p> <p>18 provider. It should give the effective</p> <p>19 date of enrollment as a Medicaid</p> <p>20 provider as well as their specialty</p> <p>21 type, if there is one.</p> <p>22 Q. Would it also allow you to print out a</p> <p>23 list of the recipients --</p>	<p>1 A. It would have to be a staff person of</p> <p>2 National Seating & Mobility.</p> <p>3 Q. Did you ever deal with a William</p> <p>4 Ballard?</p> <p>5 A. No.</p> <p>6 Q. All right.</p> <p>7 MR. WALKER: Did you mark</p> <p>8 that, Deborah?</p> <p>9 MS. NICKSON: No.</p> <p>10 (Brief pause)</p> <p>11 Q. In your communications with Elizabeth</p> <p>12 Horton, did she ever say that Emily and</p> <p>13 Don did not deliver wheelchairs?</p> <p>14 A. She did indicate that, as I recall,</p> <p>15 wheelchairs were not delivered in a</p> <p>16 timely manner.</p> <p>17 Q. But not that they were not delivered?</p> <p>18 A. I don't recall.</p> <p>19 Q. Best you could remember, was her</p> <p>20 complaint surrounding just no delivery</p> <p>21 in a timely manner?</p> <p>22 MR. STEWART: Object to the</p> <p>23 form.</p>
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<p>1 A. Based on --</p> <p>2 Q. -- that --</p> <p>3 A. Based on this screen, we would have to</p> <p>4 go to another screen that would allow</p> <p>5 us to pull up every --</p> <p>6 Q. I understand.</p> <p>7 A. Yes.</p> <p>8 Q. So this is not a preliminary screen to</p> <p>9 accessing a screen where you can pull</p> <p>10 up the recipients?</p> <p>11 A. I think you could use this screen if</p> <p>12 you had a provider number but did not</p> <p>13 have basic information on the provider</p> <p>14 or if you had information and did not</p> <p>15 have the number.</p> <p>16 Q. In that physical address, contact, it</p> <p>17 said a William Ballard. Is that name</p> <p>18 familiar to you?</p> <p>19 A. No.</p> <p>20 Q. Well, could that possibly be a</p> <p>21 recipient?</p> <p>22 A. No.</p> <p>23 Q. Or parent client?</p>	<p>1 A. Yes.</p> <p>2 MS. NICKSON: This is Bates</p> <p>3 Drab 0007. We'll mark</p> <p>4 this as Plaintiff's</p> <p>5 Exhibit #9.</p> <p>6 (Plaintiff's Exhibit #9 was</p> <p>7 marked for identification.)</p> <p>8 Q. If you would, review that document and</p> <p>9 identify it for the record, please.</p> <p>10 MS. NICKSON: Let's go off</p> <p>11 the record.</p> <p>12 (Off-the-record discussion)</p> <p>13 (Brief pause while witness</p> <p>14 reviews document)</p> <p>15 Q. Ms. Barrow, now that you've referred</p> <p>16 the --</p> <p>17 MR. WALKER: Jack's not</p> <p>18 back. I don't know if</p> <p>19 you want to wait.</p> <p>20 MS. NICKSON: Yeah, I want</p> <p>21 to wait.</p> <p>22 (Brief pause)</p> <p>23 Q. Ms. Barrow, you've reviewed what we</p>

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<p>1 marked as Plaintiff's Exhibit #9, Bates</p> <p>2 Page No. 7. If you can, identify this</p> <p>3 document for the record, please.</p> <p>4 A. This is a memo that I drafted based on</p> <p>5 information received from Elizabeth</p> <p>6 Horton about allegations of fraudulent</p> <p>7 activity.</p> <p>8 Q. And in the body of this memo, you set</p> <p>9 out four things apparently Ms. Horton</p> <p>10 reported to you. And if you could,</p> <p>11 just cite those for the record, please.</p> <p>12 A. Okay. The first is forgery of</p> <p>13 recipients' signatures on delivery</p> <p>14 tickets for durable medical equipment;</p> <p>15 improper billing practices, such as</p> <p>16 submitting requests for reimbursement</p> <p>17 of repair items that are already in</p> <p>18 their stock, ordering the wrong part</p> <p>19 for wheelchair repairs, and</p> <p>20 subsequently submitting additional PA</p> <p>21 requests for the same client where the</p> <p>22 item had already been requested and</p> <p>23 paid; instructing clients to</p>	<p>1 office, or perhaps Medicaid, had</p> <p>2 compared signatures in their process.</p> <p>3 Q. Did you see a report of any kind?</p> <p>4 A. No.</p> <p>5 Q. Improper billing practices, did you --</p> <p>6 did Ms. Horton present any particulars</p> <p>7 concerning that?</p> <p>8 A. Not to our unit.</p> <p>9 Q. How about instructing clients to leave</p> <p>10 the date section blank on the delivery</p> <p>11 ticket?</p> <p>12 A. That's what --</p> <p>13 MR. STEWART: Object to the</p> <p>14 form.</p> <p>15 A. -- we were told. And the investigation</p> <p>16 unit would have been the ones to</p> <p>17 investigate that.</p> <p>18 Q. Now, did you ever witness any delivery</p> <p>19 tickets blank, with blank date?</p> <p>20 MR. STEWART: Object to</p> <p>21 form.</p> <p>22 A. No.</p> <p>23 Q. Yours was the clinic dates --</p>
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<p>1 deliberately leave the date section</p> <p>2 blank on the delivery ticket so that</p> <p>3 they may manipulate the date based on</p> <p>4 the PA conditional approval received</p> <p>5 from Medicaid; holding requests with</p> <p>6 outdated prescriptions and when</p> <p>7 Medicaid informs that they must submit</p> <p>8 a current prescription, they indicate a</p> <p>9 current date on the old prescription.</p> <p>10 Q. Now, let's start off with the forgery</p> <p>11 of recipients' signatures on delivery</p> <p>12 tickets. Do you know whether or not</p> <p>13 that complaint was sustained?</p> <p>14 MR. STEWART: Object to the</p> <p>15 form.</p> <p>16 A. I'm not sure.</p> <p>17 Q. Do you know whether anybody contacted a</p> <p>18 recipient to compare any signatures</p> <p>19 with the files at National Seating &</p> <p>20 Mobility?</p> <p>21 A. I thought I recalled when the</p> <p>22 investigation was taking place that the</p> <p>23 investigator at the attorney general's</p>	<p>1 A. Yes.</p> <p>2 Q. -- blank. Okay. And how about</p> <p>3 prescription dates, did --</p> <p>4 MR. STEWART: Object to the</p> <p>5 form.</p> <p>6 Q. -- you ever witness any of those being</p> <p>7 blank?</p> <p>8 A. Yes. Oh, I'm sorry. Not blank. We</p> <p>9 did receive old prescriptions, and we</p> <p>10 would have to inquire as to whether</p> <p>11 another assessment was done for a new</p> <p>12 prescription.</p> <p>13 Q. All right. Now, your next-to-your-last</p> <p>14 paragraph says that this ex-employee</p> <p>15 has filed a qui tam lawsuit with the</p> <p>16 attorney general's office. Did you</p> <p>17 ever see a copy of that?</p> <p>18 A. No.</p> <p>19 Q. Who told you that?</p> <p>20 A. Ms. Horton, I believe. I don't recall</p> <p>21 right now.</p> <p>22 Q. But you were under the impression that</p> <p>23 one had been filed by Ms. Horton?</p>

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<p>1 A. Yes.</p> <p>2 Q. And that's why you stated it in the</p> <p>3 memo?</p> <p>4 A. Yes.</p> <p>5 Q. I'm going to show you what I have</p> <p>6 marked as Plaintiff's Exhibit #10.</p> <p>7 (Plaintiff's Exhibit #10 was</p> <p>8 marked for identification.)</p> <p>9 Q. If you would, review that document and</p> <p>10 then we'll identify it for the record.</p> <p>11 (Brief pause while witness</p> <p>12 reviews document)</p> <p>13 Q. Okay. Would you identify Plaintiff's</p> <p>14 Exhibit #10 for the record, please.</p> <p>15 A. This is an interview report from the</p> <p>16 attorney general's office.</p> <p>17 Q. What's the date on that?</p> <p>18 A. May 9th of 2005.</p> <p>19 Q. And it's an interview of Don Williams;</p> <p>20 correct?</p> <p>21 A. Yes.</p> <p>22 Q. Let me call your attention down to the</p> <p>23 last paragraph on page 1 of Plaintiff's</p>	<p>1 Q. She just gave you the invitation?</p> <p>2 A. Yes.</p> <p>3 MR. STEWART: Object to the</p> <p>4 form.</p> <p>5 Q. So did you associate a lot of time with</p> <p>6 Elizabeth Horton?</p> <p>7 A. Not that I would say, no.</p> <p>8 Q. Who did Elizabeth work for? Who was</p> <p>9 her actual employer? Do you know?</p> <p>10 A. As I --</p> <p>11 MR. WALKER: Object to the</p> <p>12 form.</p> <p>13 A. -- recall, it was Kelly Services, a</p> <p>14 temporary agency.</p> <p>15 Q. How did you find out about</p> <p>16 Ms. Horton's -- that she no longer</p> <p>17 worked for National Seating & Mobility?</p> <p>18 A. She had called and left a message with</p> <p>19 the agency on my phone, that she was</p> <p>20 quite upset, and indicated that she had</p> <p>21 been terminated because she was told</p> <p>22 that she was too close with Medicaid.</p> <p>23 Q. And who told you that?</p>
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<p>1 Exhibit #10, your fourth sentence up</p> <p>2 from the bottom. Don Williams told the</p> <p>3 investigator that he said one of the</p> <p>4 reasons he had to discontinue her</p> <p>5 services, meaning Elizabeth Horton, was</p> <p>6 that she was associating a lot of time</p> <p>7 with Felecia Barrows [sic] of the</p> <p>8 Medicaid Agency. Did you associate a</p> <p>9 lot of time with Elizabeth Horton?</p> <p>10 A. No.</p> <p>11 Q. Did you associate with her at all</p> <p>12 outside of the workplace?</p> <p>13 A. Just that concert that we were to go</p> <p>14 to, and she had also invited me to a</p> <p>15 party at her home. And I did go to the</p> <p>16 party and then left.</p> <p>17 Q. And was that during her employment with</p> <p>18 National Seating & Mobility?</p> <p>19 A. I think it was after her employment,</p> <p>20 the party.</p> <p>21 Q. All right. Did you all go to the</p> <p>22 concert together?</p> <p>23 A. No, we didn't.</p>	<p>1 A. That was the message that was left on</p> <p>2 my phone by Elizabeth Horton.</p> <p>3 Q. All right. Ms. Barrow, let me call</p> <p>4 your attention to an interview that you</p> <p>5 had with Investigator Gerald Shockley.</p> <p>6 And I'll hand you what we'll mark as</p> <p>7 Plaintiff's Exhibit #11.</p> <p>8 (Plaintiff's Exhibit #11 was</p> <p>9 marked for identification.)</p> <p>10 Q. Do you remember meeting with</p> <p>11 Investigator Shockley around June 23rd,</p> <p>12 2005?</p> <p>13 A. Yes.</p> <p>14 Q. And do you remember doing a tape-</p> <p>15 recorded interview?</p> <p>16 A. Yes.</p> <p>17 Q. And you stated to Mr. Shockley that</p> <p>18 Elizabeth contacted the agency once she</p> <p>19 had been terminated from employment?</p> <p>20 A. Yes.</p> <p>21 Q. Did Elizabeth talk about any</p> <p>22 infractions of National Seating &</p> <p>23 Mobility before she left?</p>

14 (Pages 53 to 56)

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<p>1 MR. STEWART: Object to the</p> <p>2 form.</p> <p>3 A. No, not that I recall.</p> <p>4 (Brief pause)</p> <p>5 Q. Do you remember telling Investigator</p> <p>6 Shockley about Teresa, your -- the</p> <p>7 nurse, the registered nurse,</p> <p>8 conversation with the physical</p> <p>9 therapist in reference to no dates --</p> <p>10 A. Yes.</p> <p>11 Q. -- being on the clinic --</p> <p>12 A. Yes.</p> <p>13 Q. -- forms? Okay. All right. Do you</p> <p>14 know whether or not Mr. Shockley talked</p> <p>15 to the physical therapist?</p> <p>16 A. I'm not sure.</p> <p>17 Q. Do you know whether or not Mr. Shockley</p> <p>18 investigated whether or not there was a</p> <p>19 relationship between Mr. Rodgers, Don</p> <p>20 Williams, and Emily Williams?</p> <p>21 A. I'm not sure.</p> <p>22 Q. Did you tell them that he knew them</p> <p>23 personally?</p>	<p>1 at the delivery tickets and the dates</p> <p>2 and -- that were on the delivery</p> <p>3 tickets.</p> <p>4 Q. And what, if anything, did you find?</p> <p>5 A. We did not find any discrepancies as,</p> <p>6 if we had found something, we would</p> <p>7 have caught it in the beginning.</p> <p>8 Q. All right. But it's your position</p> <p>9 today that you did find infractions on</p> <p>10 your own. Am I correct?</p> <p>11 A. Yes.</p> <p>12 MR. STEWART: Object to the</p> <p>13 form.</p> <p>14 MR. WALKER: Object to the</p> <p>15 form.</p> <p>16 Q. And you did bring those to the</p> <p>17 attention of the investigator?</p> <p>18 A. Yes.</p> <p>19 MS. NICKSON: All right. No</p> <p>20 further questions.</p> <p>21 EXAMINATION</p> <p>22 BY MR. STEWART:</p> <p>23 Q. We met before we began, Ms. Barrow.</p>
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<p>1 A. I don't recall.</p> <p>2 Q. Did you make them aware that you had</p> <p>3 also found documentation with no dates</p> <p>4 on them?</p> <p>5 A. As I recall, the clinic date incident.</p> <p>6 MR. STEWART: The what</p> <p>7 incident? I'm sorry.</p> <p>8 THE WITNESS: The clinic</p> <p>9 dates.</p> <p>10 Q. Now, with Ms. Horton, did she name</p> <p>11 specific people to you, or recipient,</p> <p>12 that she contended was violated by</p> <p>13 National Seating & Mobility?</p> <p>14 A. She did.</p> <p>15 Q. Do you know approximately how many?</p> <p>16 A. I don't remember.</p> <p>17 Q. Would she give you names or . . .</p> <p>18 A. She provided names.</p> <p>19 Q. Did you look at those particular</p> <p>20 recipients' files?</p> <p>21 A. Yes. I'm sorry. I'm just trying to go</p> <p>22 back to that time. I believe that we</p> <p>23 did pull those files in order to look</p>	<p>1 And I know that giving a deposition is</p> <p>2 sort of an awkward thing because it's</p> <p>3 not the way we normally deal with</p> <p>4 people, so I apologize for pointing out</p> <p>5 a couple of times that you needed to</p> <p>6 wait till the question gets asked</p> <p>7 before you answer. But I just want to</p> <p>8 remind you, please let me get my</p> <p>9 question fully out before you answer.</p> <p>10 Okay? These people may have an</p> <p>11 objection. Ms. Nickson may have an</p> <p>12 objection. And I just want to make</p> <p>13 sure that everybody gets to state their</p> <p>14 objection. All right?</p> <p>15 A. (Witness nodded.)</p> <p>16 Q. And you need to speak out your answer,</p> <p>17 too. Nodding your head -- she can't</p> <p>18 take down a nod. Okay?</p> <p>19 A. Yes.</p> <p>20 Q. Did you understand what I just finished</p> <p>21 saying?</p> <p>22 A. Yes.</p> <p>23 Q. Do you understand that your deposition</p>

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<p>1 is being given under oath?</p> <p>2 A. Yes.</p> <p>3 Q. Do you know that that means that your</p> <p>4 deposition testimony is subject to the</p> <p>5 laws of perjury?</p> <p>6 A. Yes.</p> <p>7 Q. And that you can be fined or imprisoned</p> <p>8 for violating those laws?</p> <p>9 A. Yes.</p> <p>10 Q. Have you ever given your deposition</p> <p>11 before?</p> <p>12 A. Not that I recall.</p> <p>13 Q. You testified in Ms. Horton's trial.</p> <p>14 Is that the only other trial you've</p> <p>15 testified in before?</p> <p>16 A. Yes, that's the only . . .</p> <p>17 Q. To your knowledge, is this the only</p> <p>18 time that some type of criminal</p> <p>19 activity -- I mean, not criminal</p> <p>20 activity -- but criminal trial resulted</p> <p>21 from an investigation that y'all</p> <p>22 performed?</p> <p>23 A. Yes.</p>	<p>1 Bullet Point No. 1 is something that</p> <p>2 Ms. Horton told you about?</p> <p>3 A. Yes.</p> <p>4 Q. That's not something that you had</p> <p>5 personal knowledge of; correct?</p> <p>6 A. No.</p> <p>7 Q. Is that correct, though?</p> <p>8 A. That's correct.</p> <p>9 Q. Just want to make sure we're saying the</p> <p>10 same thing. The second bullet there,</p> <p>11 that's something that Ms. Horton told</p> <p>12 you about; correct?</p> <p>13 A. Yes.</p> <p>14 Q. And that's not something you had</p> <p>15 personal knowledge of; correct?</p> <p>16 A. No.</p> <p>17 Q. Is that correct? I mean --</p> <p>18 A. That's correct.</p> <p>19 Q. I'm asking a bad question. I'll try to</p> <p>20 do it better next time. No. 3, the</p> <p>21 third bullet point, that's something</p> <p>22 Ms. Horton told you about?</p> <p>23 A. Yes.</p>
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<p>1 Q. To your knowledge, is this the first</p> <p>2 time that anyone who submitted</p> <p>3 allegations of wrongdoing to Alabama</p> <p>4 Medicaid were prosecuted?</p> <p>5 A. Yes.</p> <p>6 Q. You have testified that you put</p> <p>7 together this memorandum.</p> <p>8 MR. STEWART: And I</p> <p>9 apologize. Can you</p> <p>10 slide those exhibits</p> <p>11 just so I can have the</p> <p>12 numbers in front of me?</p> <p>13 MS. NICKSON: Okay.</p> <p>14 Q. This item here, which is marked #9, let</p> <p>15 me show you that one. That is a</p> <p>16 memorandum that Ms. Nickson asked you</p> <p>17 about a little bit. And it has four</p> <p>18 bullet points down in the body of the</p> <p>19 memorandum; is that right?</p> <p>20 A. Yes.</p> <p>21 Q. Did you actually type this document?</p> <p>22 A. Yes.</p> <p>23 Q. And if I understand your testimony,</p>	<p>1 Q. Do you have personal knowledge of</p> <p>2 anyone being asked to do that?</p> <p>3 A. No.</p> <p>4 Q. And the fourth one, is that something</p> <p>5 Ms. Horton told you about?</p> <p>6 A. Yes.</p> <p>7 Q. And do you have any personal knowledge</p> <p>8 of that occurring?</p> <p>9 A. Yes.</p> <p>10 Q. Now, you have personal knowledge that</p> <p>11 someone held a request with an outdated</p> <p>12 prescription and when Medicaid informs</p> <p>13 that they must submit a current</p> <p>14 prescription, they indicate a current</p> <p>15 date on the old prescription?</p> <p>16 A. No, not of holding.</p> <p>17 Q. What did you mean to say? Is that what</p> <p>18 Ms. Horton told you there about holding</p> <p>19 requests with outdated prescriptions?</p> <p>20 A. Yes.</p> <p>21 Q. But you didn't see that occurring;</p> <p>22 correct?</p> <p>23 A. No.</p>

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1 Q. That's a correct statement; correct?	1 submit it for prior approval?
2 A. Yes.	2 A. Yes.
3 Q. What you had found, you had in your	3 Q. And what you had observed is that there
4 memorandum dated -- which is	4 were some clinic dates missing from
5 Plaintiff's Exhibits #3 and #6, I	5 those documents?
6 believe, which are sort of the same	6 A. Yes.
7 thing, just a different version. Is	7 Q. And did you attach the ones that you
8 that right; that's your memorandum?	8 were aware of to Exhibit #6?
9 A. Yes, it is.	9 A. Yes.
10 Q. And in your memorandum, you had,	10 Q. Now, did you actually make any of these
11 according to the first paragraph, two	11 phone calls to Gerry Rodgers?
12 examples where wheelchair assessments	12 A. No. I don't recall calling Gerry.
13 were missing clinic dates?	13 Q. Did you make a phone call to this
14 A. Yes.	14 Michael Maddox person?
15 Q. And when you say a "clinic date," is	15 A. No, I did not.
16 that the date on the document attached	16 Q. You instructed Teresa Surles, an RN in
17 to Exhibit #6? I've lost my copy of	17 your department, to make those phone
18 that now. Here it is. This second	18 calls?
19 page of Exhibit #6, is that the clinic	19 A. Yes.
20 record?	20 Q. Were you present when the phone calls
21 A. Yes.	21 were made?
22 Q. And when you say "clinic date," are you	22 A. No.
23 talking about this date, like, up in	23 Q. So Teresa made the phone calls and then
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1 the upper right-hand corner of that	1 reported back to you what was said?
2 exhibit?	2 A. Yes.
3 A. Yes.	3 Q. And did you -- did she provide you any
4 Q. And this clinic date is supposed to be	4 written notes from her conversations to
5 put in by the physical therapist?	5 you?
6 A. Yes.	6 A. I don't recall.
7 Q. And according to the first paragraph of	7 Q. So as we sit here today, this just may
8 this exhibit, the physical therapists	8 be your recollection of what Teresa
9 that Teresa contacted are this Gerry	9 told you back in 2005, I guess; is that
10 Rodgers and Mike Maddox?	10 right?
11 A. Could you repeat that question?	11 A. Yes.
12 Q. Yes. These assessments that are	12 (Brief pause)
13 attached to Exhibit #6, they were	13 Q. In the third paragraph, there is a --
14 conducted by Gerry Rodgers and Mike	14 Teresa came across another assessment
15 Maddox?	15 completed by M. Maddox. Is that
16 A. Yes.	16 assessment attached to this memorandum,
17 Q. And they are employed by Children's	17 this exhibit?
18 Rehab Services; is that right?	18 A. I don't recall the assessment, which
19 A. That's correct.	19 assessment that was.
20 Q. They're not employed by NSM, are they?	20 Q. You've got some language in here
21 A. No.	21 when -- again, I know this is Teresa
22 Q. NSM would take a document and that	22 talking to Michael Maddox. But Michael
23 clinic note, put it together, and	23 Maddox replied to Teresa's question,

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<p>1 quote, Maybe we're not supposed to do</p> <p>2 this, paren, pause, close paren, comma,</p> <p>3 but I never put dates on the</p> <p>4 assessments or the prescriptions</p> <p>5 because it messes up the vendor, end</p> <p>6 quote; then there are three periods,</p> <p>7 quote, like, comma, we're on a time</p> <p>8 clock, three periods, end quote.</p> <p>9 Did -- well, you never talked to</p> <p>10 Mr. Maddox, did you?</p> <p>11 A. No.</p> <p>12 Q. So you don't know who told Mr. Maddox</p> <p>13 not to put dates on these assessments;</p> <p>14 correct?</p> <p>15 A. No.</p> <p>16 Q. Is that right? You don't know who told</p> <p>17 him that?</p> <p>18 A. I'm not sure.</p> <p>19 Q. And his employer was Children's Rehab</p> <p>20 Services?</p> <p>21 A. Yes.</p> <p>22 Q. And you referred this to Clifford</p> <p>23 Johnson and he performed an</p>	<p>1 all of these allegations made by</p> <p>2 Ms. Horton were not true, did they not?</p> <p>3 A. The attorney general's office did not</p> <p>4 communicate with us.</p> <p>5 Q. How did you learn that the AG's office</p> <p>6 investigation found that there was no</p> <p>7 evidence of any wrongdoing by National</p> <p>8 Seating?</p> <p>9 A. Through Mr. Johnson.</p> <p>10 Q. Through Cliff Johnson?</p> <p>11 A. Yes.</p> <p>12 Q. Once you learned of the AG's</p> <p>13 conclusion, did you protest?</p> <p>14 A. No.</p> <p>15 Q. Did you tell anybody above you in the</p> <p>16 chain of command that there must be</p> <p>17 something wrong here, they did</p> <p>18 something wrong, they didn't do it</p> <p>19 right?</p> <p>20 A. No. I couldn't just question what</p> <p>21 their process was.</p> <p>22 Q. And were you kept apprised step by step</p> <p>23 and day by day of the investigation</p>
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<p>1 investigation?</p> <p>2 A. This particular memo?</p> <p>3 Q. Yes, ma'am.</p> <p>4 A. This was sent to my director, my</p> <p>5 medical director.</p> <p>6 Q. And do you know that Cliff Johnson, I</p> <p>7 believe is what he told me his name</p> <p>8 was, he subsequently performed an</p> <p>9 investigation --</p> <p>10 A. Yes.</p> <p>11 Q. -- of the allegations that you have in</p> <p>12 your memorandum?</p> <p>13 A. Yes.</p> <p>14 Q. Do you consider him to be a competent</p> <p>15 and honest investigator?</p> <p>16 A. Yes.</p> <p>17 Q. And did he refer it to someone else to</p> <p>18 do the actual investigation?</p> <p>19 A. I'm not sure of their process, but</p> <p>20 eventually it was in the attorney</p> <p>21 general's office.</p> <p>22 Q. The attorney general's office told you</p> <p>23 that their investigation revealed that</p>	<p>1 that they undertook?</p> <p>2 A. No.</p> <p>3 Q. Did you receive or review any memoranda</p> <p>4 of the statements that they took or the</p> <p>5 interviews that they had?</p> <p>6 A. No.</p> <p>7 Q. You're not saying that there's</p> <p>8 something that the AG's office did</p> <p>9 wrong, are you?</p> <p>10 A. I don't know.</p> <p>11 Q. And you're not saying that the AG's</p> <p>12 office and Don Williams or NSM are in a</p> <p>13 conspiracy to hurt Ms. Horton, are you?</p> <p>14 A. I don't know that, either.</p> <p>15 Q. Ms. Horton told you that she had filed</p> <p>16 a qui tam action?</p> <p>17 A. Yes.</p> <p>18 Q. And did she tell you that she had</p> <p>19 reported NSM to the AG's office before</p> <p>20 she reported to you?</p> <p>21 A. I don't recall.</p> <p>22 Q. While she was employed with NSM, she</p> <p>23 never brought to your attention</p>

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<p>1 anything that she considered to be</p> <p>2 wrongdoing.</p> <p>3 A. No.</p> <p>4 Q. Is that correct?</p> <p>5 A. No. I don't recall any wrongdoing.</p> <p>6 Q. So that would be a correct statement?</p> <p>7 A. Yes.</p> <p>8 Q. Had you ever done a memorandum like</p> <p>9 Exhibit #6 before, against any other</p> <p>10 durable medical equipment provider?</p> <p>11 A. I don't recall.</p> <p>12 Q. Had you ever done any type of</p> <p>13 memorandum like that against any</p> <p>14 Medicaid provider, to your knowledge?</p> <p>15 A. Yes. I think I have.</p> <p>16 Q. How many times?</p> <p>17 A. I don't recall.</p> <p>18 Q. Is it a common thing?</p> <p>19 A. For me or --</p> <p>20 Q. Yes, first for you.</p> <p>21 A. If there are continuous problems, I</p> <p>22 would submit a memo.</p> <p>23 Q. All right. And what do you consider to</p>	<p>1 A. There would have been a physical file</p> <p>2 folder.</p> <p>3 Q. On the computer, would there have been</p> <p>4 a folder on each provider?</p> <p>5 A. No. It would have just been --</p> <p>6 probably listed complaints.</p> <p>7 Q. So there would be a way to search</p> <p>8 complaints, say, at Alabama Medicaid on</p> <p>9 a given provider?</p> <p>10 A. Yes.</p> <p>11 Q. But as you sit here today, this is the</p> <p>12 only memorandum you remember concerning</p> <p>13 National Seating?</p> <p>14 A. That I remember right now. There may</p> <p>15 have been others. I just don't</p> <p>16 remember.</p> <p>17 Q. You don't recall. Okay. Once</p> <p>18 Elizabeth Horton complained to you, did</p> <p>19 you sort of keep an eye on National</p> <p>20 Seating?</p> <p>21 A. Not particularly.</p> <p>22 (Brief pause)</p> <p>23 Q. You said that there was a computer at</p>
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<p>1 be continuous?</p> <p>2 A. Happening possibly on a biweekly basis</p> <p>3 or several times during a month.</p> <p>4 Q. Can you recall anybody that you've done</p> <p>5 this on before?</p> <p>6 A. I don't recall.</p> <p>7 Q. And is that the only memorandum that</p> <p>8 you put together while you were with</p> <p>9 Alabama Medicaid on National Seating?</p> <p>10 A. I don't think so. I'm not sure. I'd</p> <p>11 have to pull the file.</p> <p>12 Q. Where would we go to find it?</p> <p>13 A. At the Medicaid Agency.</p> <p>14 Q. Would it be under National Seating's</p> <p>15 name?</p> <p>16 A. Possibly.</p> <p>17 Q. Could it be anywhere else?</p> <p>18 A. In a computer.</p> <p>19 Q. Where in the computer would it be</p> <p>20 stored?</p> <p>21 A. I don't remember what folder.</p> <p>22 Q. All right. Was there a folder on each</p> <p>23 provider?</p>	<p>1 Alabama Medicaid that when you received</p> <p>2 a complaint -- let me strike that.</p> <p>3 You said that sometimes</p> <p>4 customers would call NSM and say that</p> <p>5 they haven't received their wheelchair.</p> <p>6 Do you recall that?</p> <p>7 A. Yes.</p> <p>8 Q. And that they were -- you said they</p> <p>9 were told by NSM that the delay was</p> <p>10 caused by Medicaid?</p> <p>11 A. Yes.</p> <p>12 Q. Did you actually speak to those people?</p> <p>13 A. Yes, I have.</p> <p>14 Q. How many times?</p> <p>15 A. I don't remember. I would say more</p> <p>16 than five.</p> <p>17 Q. Is that the best guess you can give us</p> <p>18 today?</p> <p>19 A. That's the best guess I can give today.</p> <p>20 Q. And on all five of those occasions, the</p> <p>21 parents were told by NSM that the delay</p> <p>22 was caused by Medicaid?</p> <p>23 A. Yes.</p>

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<p>1 Q. Now, you said you would do an inquiry</p> <p>2 on whether or not they had missed a</p> <p>3 clinic appointment or something like</p> <p>4 that?</p> <p>5 A. Yes.</p> <p>6 Q. Of those five people that you recall,</p> <p>7 do you recall whether any of them said</p> <p>8 that they had missed a clinic</p> <p>9 appointment?</p> <p>10 A. No.</p> <p>11 Q. Did any of them say -- I mean, I guess</p> <p>12 my question was bad. I said do you</p> <p>13 remember. Did any of them specifically</p> <p>14 say, to your recollection today, that</p> <p>15 they had actually missed a clinic</p> <p>16 appointment?</p> <p>17 A. No.</p> <p>18 Q. Did any of them give any other excuse?</p> <p>19 A. No.</p> <p>20 Q. You said that you would then -- you</p> <p>21 could go into the computer and you</p> <p>22 would have in the computer the date</p> <p>23 that the prior approval was received;</p>	<p>1 have been some that could have been</p> <p>2 about a car seat.</p> <p>3 Q. You just don't recall?</p> <p>4 A. I don't remember.</p> <p>5 Q. Is it true that National Seating</p> <p>6 specializes in custom-made wheelchairs?</p> <p>7 A. Yes.</p> <p>8 Q. They're not just the run-of-the-mill,</p> <p>9 everyday wheelchair that you can get at</p> <p>10 the airport, for example, or at CVS; is</p> <p>11 that correct?</p> <p>12 A. That's correct.</p> <p>13 Q. Does it indicate on your computer if</p> <p>14 Medicaid is behind in getting the</p> <p>15 paperwork completed?</p> <p>16 A. Yes.</p> <p>17 Q. It would have been on your computer?</p> <p>18 A. It would show when the actual request</p> <p>19 came in, and it would show when it was</p> <p>20 reviewed.</p> <p>21 Q. And were there times when Medicaid,</p> <p>22 because of the understaffing at the</p> <p>23 time and the being behind in work, was</p>
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<p>1 is that right?</p> <p>2 A. Yes.</p> <p>3 Q. You would have the -- whether the order</p> <p>4 had been placed on a conditional</p> <p>5 approval; is that correct?</p> <p>6 A. Yes.</p> <p>7 Q. Whether there had been a request for an</p> <p>8 extension; is that correct?</p> <p>9 A. Yes.</p> <p>10 Q. What other type of information would be</p> <p>11 on that computer?</p> <p>12 A. The type of equipment, the quantity,</p> <p>13 the expected delivery date. And that's</p> <p>14 all I can recall right now.</p> <p>15 Q. In every case, was this a wheelchair?</p> <p>16 A. As far as a delivery ticket being</p> <p>17 required, it would have to be a</p> <p>18 wheelchair or it could be some other</p> <p>19 equipment, like a walker or a car seat.</p> <p>20 Q. But on these five complaints, they were</p> <p>21 about wheelchairs?</p> <p>22 A. Most of the calls that we did receive</p> <p>23 were about wheelchairs, but there could</p>	<p>1 late in getting approvals out?</p> <p>2 A. Yes.</p> <p>3 Q. I want to make sure I understand your</p> <p>4 testimony. Elizabeth Horton filed a</p> <p>5 complaint with Alabama Medicaid; is</p> <p>6 that correct?</p> <p>7 A. She filed a verbal complaint with me,</p> <p>8 that I know of.</p> <p>9 Q. And do you know whether she made an</p> <p>10 anonymous phone call at any time?</p> <p>11 A. I do not know.</p> <p>12 Q. The verbal complaint that she made to</p> <p>13 you, we've marked as that exhibit; is</p> <p>14 that right?</p> <p>15 A. That's correct.</p> <p>16 Q. And that's the one dated July 2004?</p> <p>17 A. Yes.</p> <p>18 Q. When would you have prepared that</p> <p>19 memorandum in terms of how soon after</p> <p>20 the verbal complaint was made to you --</p> <p>21 within hours, days?</p> <p>22 A. I'm not sure. I don't recall. It</p> <p>23 could have been a day or two because of</p>

20 (Pages 77 to 80)

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<p>1 the workload.</p> <p>2 Q. I mean, would it be a month?</p> <p>3 A. No.</p> <p>4 Q. And she testified in this case that she</p> <p>5 never once initiated a complaint about</p> <p>6 NSM. Is that true?</p> <p>7 A. Not as far as I'm concerned.</p> <p>8 Q. Have you reviewed this document that's</p> <p>9 been marked Exhibit #11 to your</p> <p>10 deposition, your statement given to</p> <p>11 Mr. Shockley?</p> <p>12 A. Not thoroughly.</p> <p>13 Q. You've met with Ms. Nickson before?</p> <p>14 A. Yes.</p> <p>15 Q. Did you review the statement during</p> <p>16 your meeting with her?</p> <p>17 A. No.</p> <p>18 Q. Did you listen to the audiotape?</p> <p>19 A. No.</p> <p>20 Q. What did she tell you about the</p> <p>21 statement?</p> <p>22 A. I don't know anything of this.</p> <p>23 Q. So you can't vouch for the accuracy of</p>	<p>1 failed to formulate the question to get</p> <p>2 the answer about National Seating &</p> <p>3 Mobility. Do you remember a question</p> <p>4 like that being asked?</p> <p>5 A. I don't recall.</p> <p>6 Q. I know it's been a while. Can you</p> <p>7 think of a business interest that NSM</p> <p>8 would have in delaying the delivery of</p> <p>9 a wheelchair? They don't get paid</p> <p>10 until it's delivered, do they?</p> <p>11 A. Exactly.</p> <p>12 Q. Back in March to June of 2004, can you</p> <p>13 tell us where you were living?</p> <p>14 A. 6460 Sandy Ridge Curve.</p> <p>15 Q. Is that where you currently live?</p> <p>16 A. Yes.</p> <p>17 Q. What's your phone number?</p> <p>18 A. I use a cellular phone. It's</p> <p>19 (334)318-5409.</p> <p>20 Q. Back in March to June of 2004, did you</p> <p>21 have what I call a hardline phone there</p> <p>22 at Sandy Ridge Curve?</p> <p>23 A. Yes, I did.</p>
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<p>1 that statement as you sit here today?</p> <p>2 A. Not without really . . .</p> <p>3 Q. I'm not going to ask you to go through</p> <p>4 that. That would be too painful for</p> <p>5 everybody.</p> <p>6 A. Okay.</p> <p>7 Q. At the time that your statement was</p> <p>8 taken by Gerald Shockley, did you tell</p> <p>9 the truth?</p> <p>10 A. Yes.</p> <p>11 Q. Is there anything you would have</p> <p>12 changed about your statement if you'd</p> <p>13 had the opportunity?</p> <p>14 A. Not that -- no.</p> <p>15 Q. Do you remember at the end of the</p> <p>16 statement you were asked if you had any</p> <p>17 other information that y'all hadn't</p> <p>18 discussed that you'd like to add in?</p> <p>19 Do you remember that question?</p> <p>20 A. I don't remember it.</p> <p>21 Q. The question was, Okay. Is there</p> <p>22 anything else that you think is</p> <p>23 important that I should know that I</p>	<p>1 Q. What was that number?</p> <p>2 A. (334)244-4916.</p> <p>3 Q. And did you also have a cell phone at</p> <p>4 that time?</p> <p>5 A. Yes.</p> <p>6 Q. And what number was it?</p> <p>7 A. The (334)318-5409.</p> <p>8 Q. So you had that phone number at the</p> <p>9 same time?</p> <p>10 A. Yes.</p> <p>11 Q. Did you make any calls to Elizabeth</p> <p>12 Horton on your cell phone?</p> <p>13 A. I don't recall. I could have. I don't</p> <p>14 recall.</p> <p>15 Q. Did you make any phone calls to</p> <p>16 Elizabeth Horton on your home phone?</p> <p>17 A. I could have.</p> <p>18 Q. And why is it that you would make phone</p> <p>19 calls from your personal cell phone or</p> <p>20 your home phone to Elizabeth Horton</p> <p>21 back in that time frame?</p> <p>22 A. I think that I had called possibly</p> <p>23 regarding the concert, just to find out</p>

21 (Pages 81 to 84)

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<p>1 location.</p> <p>2 Q. And what concert was it?</p> <p>3 A. I think it was Ron Isley.</p> <p>4 Q. Any other concerts?</p> <p>5 A. No.</p> <p>6 Q. And as I understand your testimony,</p> <p>7 initially y'all were going to go</p> <p>8 together, but you ended up going with</p> <p>9 another friend instead?</p> <p>10 A. Well, she had asked me to attend the</p> <p>11 concert. And I told her that it would</p> <p>12 be great to meet her and we would -- I</p> <p>13 would meet her there. And I took</p> <p>14 another friend.</p> <p>15 Q. And how is it that she knew you might</p> <p>16 be interested in the Ron Isley concert?</p> <p>17 A. We were talking about some PA requests</p> <p>18 over the phone, and she just happened</p> <p>19 to mention that, as we do with other</p> <p>20 providers.</p> <p>21 Q. Did you ever eat lunch with Elizabeth?</p> <p>22 A. No.</p> <p>23 Q. Did you ever have lunch out there at</p>	<p>1 Q. Other than the phone call that led to</p> <p>2 the memorandum that you typed up in</p> <p>3 July and the call to you to invite you</p> <p>4 to the party, about how often would</p> <p>5 y'all talk?</p> <p>6 A. About PA requests, almost daily.</p> <p>7 Q. After she left NSM.</p> <p>8 A. Oh, after she left. We did not speak</p> <p>9 very much.</p> <p>10 Q. How often?</p> <p>11 A. I would say maybe -- I know once a</p> <p>12 month, she would leave messages on my</p> <p>13 phone.</p> <p>14 Q. What kind of messages?</p> <p>15 A. Just to say hello. That was all.</p> <p>16 Q. And did you call her back?</p> <p>17 A. Most occasions, I did not.</p> <p>18 Q. Why?</p> <p>19 A. I just didn't have time.</p> <p>20 Q. Did you think it was inappropriate that</p> <p>21 she call you at home?</p> <p>22 A. No, not necessarily.</p> <p>23 Q. Did you think it was inappropriate that</p>
Page 86	Page 88
<p>1 National Seating?</p> <p>2 A. No.</p> <p>3 Q. Did you ever have dinner with Elizabeth</p> <p>4 Horton?</p> <p>5 A. Not that I recall.</p> <p>6 Q. Tell me about the party that you went</p> <p>7 to at her house.</p> <p>8 A. I don't remember what type. I think it</p> <p>9 was something -- it was around -- I</p> <p>10 don't know if it was a holiday. I</p> <p>11 don't remember. But it was a party at</p> <p>12 her home, and it -- I just don't</p> <p>13 remember what type. But it was a party</p> <p>14 at her home, and she asked if I would</p> <p>15 come to the party.</p> <p>16 Q. How many people were there?</p> <p>17 A. I don't remember. More than ten.</p> <p>18 Q. So it was a smallish kind of party?</p> <p>19 A. Yes.</p> <p>20 Q. And you said earlier that it was after</p> <p>21 she left National Seating?</p> <p>22 A. As I recall, I -- it was after her</p> <p>23 employment.</p>	<p>1 she'd invite you to a concert?</p> <p>2 A. No.</p> <p>3 Q. Is Ron Isley a rap singer?</p> <p>4 A. No.</p> <p>5 Q. Did you ever talk about going to a rap</p> <p>6 concert with her?</p> <p>7 A. No.</p> <p>8 Q. Did she ever invite you to a rap</p> <p>9 concert?</p> <p>10 A. No.</p> <p>11 Q. Can you think of any reason that</p> <p>12 Elizabeth Horton would tell someone at</p> <p>13 National Seating that y'all were</p> <p>14 friends?</p> <p>15 A. No. I -- I -- maybe it was her</p> <p>16 perception.</p> <p>17 Q. Can you think of any reason that she</p> <p>18 would tell anyone at NSM that y'all had</p> <p>19 lunch together?</p> <p>20 A. No.</p> <p>21 Q. Can you think of any reason that she</p> <p>22 would tell anyone at NSM that y'all had</p> <p>23 gone to a rap concert together?</p>

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<p>1 A. No.</p> <p>2 Q. As I look through your statement, it</p> <p>3 says that you would get phone calls on</p> <p>4 almost a daily basis to get an</p> <p>5 extension request for a PA?</p> <p>6 A. Yes.</p> <p>7 Q. From Elizabeth Horton herself?</p> <p>8 A. Yes. And prior to that, another staff</p> <p>9 person.</p> <p>10 Q. She would call you?</p> <p>11 A. Yes.</p> <p>12 Q. Is that who she's supposed to call if</p> <p>13 she wants an extension?</p> <p>14 A. I was the only one who could approve</p> <p>15 extensions.</p> <p>16 Q. Did you ever not approve an extension</p> <p>17 for National Seating?</p> <p>18 A. I think I recall one.</p> <p>19 Q. And why did you not approve it?</p> <p>20 A. The only way that I would not approve</p> <p>21 one is that the justification was just</p> <p>22 not according to what we would accept.</p> <p>23 Q. And what's the justification you recall</p>	<p>1 them?</p> <p>2 A. Yes.</p> <p>3 Q. What other companies did you do that</p> <p>4 for here in Montgomery?</p> <p>5 A. I don't recall any other DME companies.</p> <p>6 Q. What other Medicaid provider companies</p> <p>7 did you visit here in Montgomery?</p> <p>8 A. I think possibly a provider -- a</p> <p>9 physician's office during my employment</p> <p>10 with Medicaid.</p> <p>11 Q. So just the two?</p> <p>12 A. I don't remember, but that's all I can</p> <p>13 recall right now.</p> <p>14 Q. And on the day that you decided to go</p> <p>15 out there, you informed Elizabeth that</p> <p>16 you would be coming?</p> <p>17 A. Yes.</p> <p>18 Q. So on the day you went out there, you</p> <p>19 knew Elizabeth by name before you went</p> <p>20 out there?</p> <p>21 A. Yes.</p> <p>22 Q. Had you not met any of the other NSM</p> <p>23 employees before that date?</p>
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<p>1 on the one you recall?</p> <p>2 A. I don't remember.</p> <p>3 Q. And I take it that on these phone calls</p> <p>4 that she would make to you asking for</p> <p>5 extensions, y'all eventually got to</p> <p>6 where you were talking about things</p> <p>7 other than just the extension?</p> <p>8 A. Most times, it was just the extensions.</p> <p>9 And -- because I don't -- I didn't have</p> <p>10 time to just chat on the phone.</p> <p>11 Q. But on some of the occasions, you did</p> <p>12 do some chatting?</p> <p>13 A. Sure.</p> <p>14 (Brief pause)</p> <p>15 Q. How often did you go out to National</p> <p>16 Seating?</p> <p>17 A. Just once.</p> <p>18 Q. Just that one time you described?</p> <p>19 A. As I recall. Uh-huh.</p> <p>20 Q. And as I understand your testimony, you</p> <p>21 said that you had never been out there</p> <p>22 before and they were in Montgomery, so</p> <p>23 you thought you would drop in and visit</p>	<p>1 A. No.</p> <p>2 Q. Had you talked to any of them on the</p> <p>3 telephone?</p> <p>4 A. Yes, I do believe so.</p> <p>5 Q. As a result of your visit to NSM, did</p> <p>6 you file any complaints with Alabama</p> <p>7 Medicaid on what you found out there?</p> <p>8 A. No.</p> <p>9 Q. Did you find anything out there out of</p> <p>10 line?</p> <p>11 A. No.</p> <p>12 Q. How many other companies would there be</p> <p>13 located in Montgomery who had a</p> <p>14 contractual relationship with a</p> <p>15 Medicaid Agency?</p> <p>16 A. I have no idea. There is a vendor file</p> <p>17 where that information could be</p> <p>18 obtained.</p> <p>19 Q. How many were there in the state?</p> <p>20 A. I don't recall that --</p> <p>21 Q. What's your best estimate?</p> <p>22 A. I couldn't even guess at the number of</p> <p>23 vendors.</p>

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<p>1 Q. How many durable medical equipment</p> <p>2 companies are there in Montgomery?</p> <p>3 A. There are several in Montgomery.</p> <p>4 Q. And by "several," as many as five?</p> <p>5 A. At least five, if not more.</p> <p>6 Q. Back in 2004, spring of 2004, were</p> <p>7 there less?</p> <p>8 A. I don't recall.</p> <p>9 Q. Was NSM one of the bigger ones?</p> <p>10 A. When you say "bigger," do you mean -- I</p> <p>11 don't know --</p> <p>12 Q. Volume.</p> <p>13 A. As far as children's customized, yes.</p> <p>14 Q. They're still the leader in that area,</p> <p>15 aren't they?</p> <p>16 A. I don't know.</p> <p>17 Q. At the time, they were, when you were</p> <p>18 there?</p> <p>19 A. I would say possibly.</p> <p>20 Q. How many phone calls did you make on</p> <p>21 behalf of Elizabeth Horton after you</p> <p>22 learned she had left?</p> <p>23 A. I think it was, as I recall, one.</p>	<p>1 Q. So this would be the first time?</p> <p>2 A. Yes.</p> <p>3 Q. And how did you get in touch with</p> <p>4 Danielle Pirkle?</p> <p>5 A. I had her number because we had spoken</p> <p>6 prior to that.</p> <p>7 Q. And what did you say to her when you</p> <p>8 spoke with her?</p> <p>9 A. I don't remember. And I may have left</p> <p>10 a message. I think it was something to</p> <p>11 the effect that we were a little</p> <p>12 concerned about the termination. We</p> <p>13 had spent quite a bit of time with this</p> <p>14 particular employee, providing training</p> <p>15 and technical assistance, and we</p> <p>16 thought that we were at a place where</p> <p>17 we were getting the information that we</p> <p>18 needed timely. So that's basically</p> <p>19 what the call was surrounding.</p> <p>20 Q. Were you seeking an explanation?</p> <p>21 A. Well, we just wanted to know what could</p> <p>22 have been the problem, because she was</p> <p>23 working out well with us. We --</p>
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<p>1 Q. Could it have been two?</p> <p>2 A. I don't remember. It may have been.</p> <p>3 Q. Do you recall placing a phone call to a</p> <p>4 Danielle Pirkle?</p> <p>5 A. Yes, I do recall.</p> <p>6 Q. And she is an actual employee of NSM in</p> <p>7 Nashville, Tennessee?</p> <p>8 A. Yes.</p> <p>9 Q. And why did you call Danielle Pirkle?</p> <p>10 A. She and I had had some discussions</p> <p>11 prior, and I knew that she was handling</p> <p>12 some of the accounts with the</p> <p>13 Montgomery office. And we were, the</p> <p>14 staff and I, were just a little bit</p> <p>15 puzzled as to the termination and we</p> <p>16 just wanted to have some explanation of</p> <p>17 that.</p> <p>18 Q. How many times did you make phone calls</p> <p>19 on behalf of terminated employees or</p> <p>20 temporary employees?</p> <p>21 A. I've never been involved in any other</p> <p>22 company that had temporary employees or</p> <p>23 terminated employees.</p>	<p>1 Q. Is that something that Alabama Medicaid</p> <p>2 is charged with the responsibility of</p> <p>3 doing?</p> <p>4 A. I can't speak for the Medicaid Agency.</p> <p>5 Just as an associate director in that</p> <p>6 division, we were concerned with the</p> <p>7 turnover of the staff and spending a</p> <p>8 lot of staff time with a person and we</p> <p>9 just wanted, you know, just to --</p> <p>10 Q. You wanted an explanation?</p> <p>11 A. Uh-huh.</p> <p>12 Q. Is that right?</p> <p>13 A. We didn't demand an explanation. We</p> <p>14 were just indicating our concerns.</p> <p>15 Q. You could understand how that might</p> <p>16 have concerned NSM to have Alabama</p> <p>17 Medicaid calling and wondering why</p> <p>18 they'd let someone go, can't you?</p> <p>19 A. I don't know. I know that we had spent</p> <p>20 a lot of staff time training and --</p> <p>21 Q. That's not my question. My question</p> <p>22 was, can you understand why NSM would</p> <p>23 be concerned that the approval</p>

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<p>1 director -- assistant director of the</p> <p>2 prior approval unit was calling them,</p> <p>3 asking them why an employee was no</p> <p>4 longer there?</p> <p>5 A. Perhaps.</p> <p>6 Q. Now, did you also make a phone call to</p> <p>7 an individual by the name of Lois</p> <p>8 Bodiford?</p> <p>9 A. I don't recall.</p> <p>10 Q. Lois Bodiford is in Birmingham.</p> <p>11 A. Okay.</p> <p>12 Q. Did you make any calls to Birmingham?</p> <p>13 A. I spoke with her on several occasions,</p> <p>14 as I recall.</p> <p>15 Q. I'm talking specifically about</p> <p>16 Elizabeth Horton was no longer there.</p> <p>17 A. I may have. I don't know. I don't</p> <p>18 recall.</p> <p>19 Q. Was this a room you were calling from</p> <p>20 or were you calling from your office?</p> <p>21 A. From my office.</p> <p>22 Q. Did the call get placed on your office</p> <p>23 phone or on cell phone?</p>	<p>1 A. Yes.</p> <p>2 Q. Would you agree with me that any</p> <p>3 efforts to influence the agency by a</p> <p>4 Medicare provider or Medicaid provider</p> <p>5 might be seen as unethical conduct?</p> <p>6 MS. NICKSON: Object to the</p> <p>7 form.</p> <p>8 A. If that's what the intent was, to</p> <p>9 influence.</p> <p>10 Q. Would you agree with me that it's not a</p> <p>11 good idea to have too close a</p> <p>12 relationship between someone who works</p> <p>13 for one of the companies and the</p> <p>14 Medicaid Agency?</p> <p>15 A. I would agree.</p> <p>16 Q. You testified at Elizabeth Horton's</p> <p>17 trial. We've already established that.</p> <p>18 Can you tell me whether you were</p> <p>19 subpoenaed?</p> <p>20 A. Yes, I was.</p> <p>21 Q. And who issued the subpoena to you?</p> <p>22 A. I don't remember. I don't recall at</p> <p>23 the time.</p>
Page 98	Page 100
<p>1 A. Office phone.</p> <p>2 Q. Did you have anyone in the office with</p> <p>3 you when you placed the call?</p> <p>4 A. No.</p> <p>5 Q. Did you report to anyone that you had</p> <p>6 placed the calls?</p> <p>7 A. I talked with my staff.</p> <p>8 Q. The folks that work under you?</p> <p>9 A. Yes.</p> <p>10 Q. Did you tell anybody who worked over</p> <p>11 you that you'd placed the calls?</p> <p>12 A. I don't recall doing that.</p> <p>13 Q. During the investigation that was</p> <p>14 performed, did you inform the attorney</p> <p>15 general's office that you had placed</p> <p>16 the calls?</p> <p>17 A. I was asked and -- and provided that</p> <p>18 information.</p> <p>19 Q. Would you agree with me that it is</p> <p>20 wrongful for a company that has a</p> <p>21 contractual relationship with Medicaid</p> <p>22 Agency to attempt to influence the</p> <p>23 agency?</p>	<p>1 Q. Who called you to testify?</p> <p>2 A. I believe it was the attorney general's</p> <p>3 office.</p> <p>4 Q. Wouldn't have been Elizabeth Horton?</p> <p>5 A. No.</p> <p>6 Q. Did you talk to her before her trial</p> <p>7 about the trial?</p> <p>8 A. No.</p> <p>9 Q. About what you would testify to?</p> <p>10 A. No.</p> <p>11 Q. Did she ask you?</p> <p>12 A. No, not that I recall.</p> <p>13 Q. When did you leave Alabama Medicaid?</p> <p>14 A. In 2005.</p> <p>15 Q. When in 2005?</p> <p>16 A. I think it was November.</p> <p>17 Q. And what were the circumstances around</p> <p>18 your leaving?</p> <p>19 A. A better employment opportunity.</p> <p>20 Q. Were you doing well at Alabama</p> <p>21 Medicaid?</p> <p>22 A. Yes.</p> <p>23 Q. Getting good reviews and everything?</p>

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<p>1 A. Yes.</p> <p>2 Q. It was just to make more money?</p> <p>3 A. And to lessen my workload.</p> <p>4 Q. Where all did you go to school?</p> <p>5 A. You mean high school?</p> <p>6 Q. Yes.</p> <p>7 A. High school at Robert E. Lee High</p> <p>8 School here in Montgomery.</p> <p>9 Q. So you were born and bred here in</p> <p>10 Montgomery?</p> <p>11 A. Yes.</p> <p>12 Q. And where did you go after high school?</p> <p>13 A. On to Jackson State University in</p> <p>14 Jackson, Mississippi.</p> <p>15 Q. And after that?</p> <p>16 A. Auburn University-Montgomery.</p> <p>17 Q. After that, anywhere?</p> <p>18 A. No.</p> <p>19 Q. Did you graduate from AUM?</p> <p>20 A. Yes.</p> <p>21 Q. What year?</p> <p>22 A. 2001.</p> <p>23 Q. Do you have any relatives that live in</p>	<p>1 A. (Witness nodded.) Oh, possibly</p> <p>2 Hendricks.</p> <p>3 Q. Anyone else?</p> <p>4 A. Dunn.</p> <p>5 Q. D-U-N-N?</p> <p>6 A. D-U-N-N.</p> <p>7 Q. Okay.</p> <p>8 A. Gray.</p> <p>9 Q. G-R-A-Y?</p> <p>10 A. Yes.</p> <p>11 MR. WALKER: And how do you</p> <p>12 spell Hendricks, please?</p> <p>13 THE WITNESS: H-E-N-D-R-I-C-</p> <p>14 K-S.</p> <p>15 Q. When did you meet with Ms. Nickson?</p> <p>16 A. I don't remember. It was last year, I</p> <p>17 think, sometime.</p> <p>18 Q. Did she turn on a tape recorder and</p> <p>19 record your conversation?</p> <p>20 A. I don't recall.</p> <p>21 Q. Have you seen any type recording like</p> <p>22 that?</p> <p>23 A. Have I seen it?</p>
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<p>1 Montgomery?</p> <p>2 A. Yes. My parents.</p> <p>3 Q. And what are your parents' names?</p> <p>4 A. Jasper and Ruth Salary.</p> <p>5 Q. Like --</p> <p>6 A. Money.</p> <p>7 Q. -- money/salary?</p> <p>8 A. Uh-huh.</p> <p>9 Q. Any other relatives you have in</p> <p>10 Montgomery?</p> <p>11 A. Cousins. That's about it.</p> <p>12 Q. I'm not prying in your -- it may sound</p> <p>13 like it. Let me tell you why I'm</p> <p>14 asking. If this case goes to trial,</p> <p>15 then it will be tried to a jury here in</p> <p>16 this area. By "this area," I mean not</p> <p>17 only Montgomery County but sort of the</p> <p>18 surrounding counties. Can you just</p> <p>19 give me the last names of your</p> <p>20 relatives so I can make sure that your</p> <p>21 cousins aren't on the jury?</p> <p>22 A. Oh. Salary.</p> <p>23 Q. That's it?</p>	<p>1 Q. Yes. Or any type transcript of y'all's</p> <p>2 conversation, have you seen one like</p> <p>3 that?</p> <p>4 A. No.</p> <p>5 Q. If there was a recording of your</p> <p>6 conversation, would that be something</p> <p>7 you would want to have?</p> <p>8 A. Possibly.</p> <p>9 Q. Would you mind if I had a copy of any</p> <p>10 recording of your conversation with</p> <p>11 Ms. Nickson, if it exists?</p> <p>12 A. No.</p> <p>13 Q. When you say "last year," does that</p> <p>14 mean last month, since we're in</p> <p>15 January, or --</p> <p>16 A. No. I guess it would have been earlier</p> <p>17 in the year, earlier in 2007.</p> <p>18 Q. And where did y'all meet?</p> <p>19 A. In her office.</p> <p>20 Q. And had you been there before?</p> <p>21 A. Yes.</p> <p>22 Q. Why had you been there before?</p> <p>23 A. On a personal case.</p>

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<p>1 Q. Personal injury case or --</p> <p>2 A. No. Divorce.</p> <p>3 Q. And is that resolved now?</p> <p>4 A. Yes.</p> <p>5 Q. Were you divorced from your most recent</p> <p>6 husband?</p> <p>7 A. Yes.</p> <p>8 Q. Was that your only --</p> <p>9 A. That's the only --</p> <p>10 Q. I realized after it came out that</p> <p>11 didn't sound right. And that would be</p> <p>12 Mr. Barrow then?</p> <p>13 A. LeRoy Barrow, yes.</p> <p>14 Q. And when did that take place?</p> <p>15 A. The final?</p> <p>16 Q. Yes.</p> <p>17 A. Was in February.</p> <p>18 Q. Of?</p> <p>19 A. '07.</p> <p>20 Q. And can you tell me when you first saw</p> <p>21 Ms. Nickson?</p> <p>22 A. I think it was in 2005, October-</p> <p>23 November.</p>	<p>1 Q. Was it after her employment with NSM?</p> <p>2 A. Yes.</p> <p>3 Q. Was it after the trial?</p> <p>4 A. I don't remember. I don't remember.</p> <p>5 Q. Well, let me help you out, if I can.</p> <p>6 The trial took place in September of</p> <p>7 2005.</p> <p>8 A. Okay.</p> <p>9 Q. Your divorce took place in October or</p> <p>10 November of 2005.</p> <p>11 A. No. That was the initial meeting.</p> <p>12 Q. I'm sorry. The initial meeting took</p> <p>13 place in October-November of 2005.</p> <p>14 A. Uh-huh.</p> <p>15 Q. So a month after the trial was your</p> <p>16 first meeting with Ms. Nickson about</p> <p>17 the divorce?</p> <p>18 A. Yes.</p> <p>19 Q. Did you tell Elizabeth Horton</p> <p>20 Ms. Nickson's name before you had the</p> <p>21 initial meeting with her --</p> <p>22 MS. NICKSON: Object to the</p> <p>23 form.</p>
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<p>1 Q. So had you known her before?</p> <p>2 A. No. Just known of her.</p> <p>3 Q. Through?</p> <p>4 A. Church.</p> <p>5 Q. Do y'all go to the same church?</p> <p>6 A. No.</p> <p>7 Q. Well, then, how did you know her</p> <p>8 through church?</p> <p>9 A. Oh, I've seen she and her husband in</p> <p>10 the Baptist arena. I did visit their</p> <p>11 church and I'd seen them.</p> <p>12 Q. Well, before you hired her in October</p> <p>13 or November of 2005, you had only seen</p> <p>14 her in church?</p> <p>15 A. Yes.</p> <p>16 Q. Are you the one who referred Ms. Horton</p> <p>17 to Ms. Nickson?</p> <p>18 A. She had asked me for several attorneys,</p> <p>19 and I gave her several and told her to</p> <p>20 look in the phone book for some. But</p> <p>21 I --</p> <p>22 Q. When did that conversation take place?</p> <p>23 A. I don't recall. I don't remember.</p>	<p>1 Q. -- before the initial meeting with</p> <p>2 Ms. Nickson in October or November of</p> <p>3 2005?</p> <p>4 A. I don't -- I just don't remember. I</p> <p>5 don't remember.</p> <p>6 Q. Did you know Ms. Nickson before</p> <p>7 September of 2005?</p> <p>8 A. Yes.</p> <p>9 Q. How long have you known her?</p> <p>10 A. I've known of her probably since</p> <p>11 1995-96.</p> <p>12 Q. And what was the reason for your</p> <p>13 getting to know her then?</p> <p>14 A. I didn't -- I knew of her. And at the</p> <p>15 time that I was dating my ex-husband,</p> <p>16 he knew her husband. I just knew of</p> <p>17 them because they were well known in</p> <p>18 the Montgomery area.</p> <p>19 Q. Have you ever been to her house,</p> <p>20 Ms. Nickson's house?</p> <p>21 A. No.</p> <p>22 Q. Y'all ever been out to dinner?</p> <p>23 A. No.</p>

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<p>1 Q. Ever been to a social event where</p> <p>2 they've been, other than church?</p> <p>3 A. No.</p> <p>4 Q. Have you ever used Ms. Nickson for an</p> <p>5 attorney other than for your divorce?</p> <p>6 A. No.</p> <p>7 Q. Thank you.</p> <p>8 MR. STEWART: I have no</p> <p>9 other questions.</p> <p>10 (Off-the-record discussion)</p> <p>11 (Brief recess)</p> <p>12 EXAMINATION</p> <p>13 BY MR. WALKER:</p> <p>14 Q. My name is Dorman Walker, Ms. Barrow,</p> <p>15 and I represent Don Williams. Have you</p> <p>16 ever talked with Don Williams?</p> <p>17 A. I did meet him when I went out to</p> <p>18 National Seating.</p> <p>19 Q. Tell me about that, please.</p> <p>20 A. I was there at the location and</p> <p>21 Elizabeth and I were going through some</p> <p>22 of their PAs, and he walked in and she</p> <p>23 introduced us.</p>	<p>1 memorandum. And I wondered did you</p> <p>2 have before you at that time either of</p> <p>3 the two memorandums we've talked about</p> <p>4 today, the July 9, 2004, memorandum or</p> <p>5 the February 16, 2005, memorandum?</p> <p>6 A. Yes.</p> <p>7 Q. You had both of them with you?</p> <p>8 A. I think I had all memos.</p> <p>9 Q. I just wanted to know what they were.</p> <p>10 The parents that you talked to about</p> <p>11 wheelchairs, was it five or six parents</p> <p>12 you said you talked to?</p> <p>13 A. I didn't recall but I -- you know,</p> <p>14 about five, I guess.</p> <p>15 Q. And those would have been parents of</p> <p>16 Medicaid-eligible children?</p> <p>17 A. Yes.</p> <p>18 Q. Do Medicaid-eligible patients, because</p> <p>19 of income level or transportation</p> <p>20 problems, frequently or -- is getting</p> <p>21 them to clinics a problem?</p> <p>22 A. I'm not sure.</p> <p>23 Q. You don't know one way or the other?</p>
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<p>1 Q. And y'all said hello?</p> <p>2 A. Yes.</p> <p>3 Q. And that was about it?</p> <p>4 A. That was about it.</p> <p>5 Q. And was he polite?</p> <p>6 A. Yes.</p> <p>7 Q. Had you ever talked with him at any</p> <p>8 other time?</p> <p>9 A. No.</p> <p>10 Q. And did you talk with him at any time</p> <p>11 since then?</p> <p>12 A. No.</p> <p>13 Q. Do you have any reason to believe or</p> <p>14 any evidence to support the belief that</p> <p>15 he is part of a conspiracy to somehow</p> <p>16 get or prosecute wrongfully Elizabeth</p> <p>17 Horton?</p> <p>18 A. No. No.</p> <p>19 Q. When you were interviewed by the AG's</p> <p>20 office -- and I believe the transcript</p> <p>21 of that is sitting there right before</p> <p>22 you, marked as Exhibit #11 -- at one</p> <p>23 point, you appear to refer to a</p>	<p>1 A. No.</p> <p>2 Q. How interchangeable are the types of</p> <p>3 wheelchairs that NSM would be providing</p> <p>4 to patients? Are they individualized</p> <p>5 for each patient?</p> <p>6 A. Yes, they are.</p> <p>7 Q. So the wheelchair for one patient would</p> <p>8 not fit other patients, typically?</p> <p>9 A. Not necessarily.</p> <p>10 Q. And how individualized are they? Do</p> <p>11 you know?</p> <p>12 A. I don't know the process for fitting,</p> <p>13 but it -- it's deemed a custom -- a</p> <p>14 customized wheelchair.</p> <p>15 Q. For each of the limbs and the body and</p> <p>16 the head, it's all customized for each</p> <p>17 person?</p> <p>18 A. Yes.</p> <p>19 Q. So unless two people had the same body</p> <p>20 size and the same disabilities, then</p> <p>21 you would not expect them to be able to</p> <p>22 share the same wheelchair?</p> <p>23 A. I'm not sure. I don't know.</p>

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<p>1 Q. Don't know one way or the other?</p> <p>2 A. No.</p> <p>3 Q. Mr. Stewart asked you about this</p> <p>4 July 9, 2004, memorandum. And what</p> <p>5 number is that? It's 007. Is that #9?</p> <p>6 A. Yes.</p> <p>7 Q. And he asked you about the four bullets</p> <p>8 here. And you testified that you had</p> <p>9 no personal knowledge as to Bullets 1</p> <p>10 through 4, but I think you said you had</p> <p>11 some personal knowledge as to Bullet 4;</p> <p>12 is that correct?</p> <p>13 A. Regarding the Bullet 4, not necessarily</p> <p>14 holding the requests but just receiving</p> <p>15 outdated prescriptions.</p> <p>16 Q. And you indicated that was contained in</p> <p>17 Plaintiff's Exhibit #6, the other</p> <p>18 memorandum by you?</p> <p>19 A. I think that this memo is regarding</p> <p>20 clinic dates. I don't see where we</p> <p>21 addressed an outdated prescription with</p> <p>22 this particular instance.</p> <p>23 Q. All right. When parents called and</p>	<p>1 Q. Did you call the clinic and ask for the</p> <p>2 records?</p> <p>3 A. I don't recall at this point. I know</p> <p>4 that that would be something that we</p> <p>5 could possibly do.</p> <p>6 Q. You had the authority to do that.</p> <p>7 A. Yes.</p> <p>8 Q. And that would have been the most</p> <p>9 correct way or accurate way to</p> <p>10 determine whether or not they'd</p> <p>11 attended the clinic?</p> <p>12 A. Yes.</p> <p>13 Q. But y'all did not do that?</p> <p>14 A. Well, I won't say that we didn't.</p> <p>15 Q. Did you record anywhere that y'all did</p> <p>16 that, that you can think of?</p> <p>17 A. Not that I can recall.</p> <p>18 Q. Would you have recorded it if y'all had</p> <p>19 found information that National Seating</p> <p>20 was lying to you?</p> <p>21 A. I think we would record it one --</p> <p>22 either way.</p> <p>23 Q. And you did not record it? There's no</p>
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<p>1 said that they had not missed a clinic,</p> <p>2 did you take them at their word?</p> <p>3 A. Of the ones that I had spoken with, I</p> <p>4 had not received any information that</p> <p>5 they had not missed a -- I mean that</p> <p>6 they had missed a clinic.</p> <p>7 Q. Well, hadn't National Seating told you</p> <p>8 they had missed a clinic or am I</p> <p>9 confusing --</p> <p>10 A. National Seating would tell us that the</p> <p>11 children had missed clinic.</p> <p>12 Q. And the parents would call and say, No,</p> <p>13 we didn't miss a clinic?</p> <p>14 A. Of some of those we would ask, we would</p> <p>15 inquiry, you know, make an inquiry, and</p> <p>16 they would indicate that they had not</p> <p>17 missed clinic.</p> <p>18 Q. And how did you make a determination</p> <p>19 which side was being truthful there?</p> <p>20 A. I did not know.</p> <p>21 Q. So you don't know to this day which</p> <p>22 side was being accurate?</p> <p>23 A. No.</p>	<p>1 records as far as you know?</p> <p>2 A. It may have been listed on the computer</p> <p>3 screen in the notes, the comments</p> <p>4 section.</p> <p>5 Q. But so far as you know, it's not; is</p> <p>6 that correct?</p> <p>7 A. It may be.</p> <p>8 Q. But you don't know one way or the</p> <p>9 other?</p> <p>10 A. I don't know.</p> <p>11 Q. Well, wouldn't that be important, I</p> <p>12 mean, in your view of things? Wouldn't</p> <p>13 you be able to tell us here that you</p> <p>14 had found out by looking at the clinic</p> <p>15 rolls that either the parents were</p> <p>16 lying to you or National Mobility had</p> <p>17 lied to you?</p> <p>18 A. If this was regarding a delivery and</p> <p>19 the reason for delay of a delivery and</p> <p>20 the request for an extension, if we</p> <p>21 found out that the justification that</p> <p>22 was provided to us checked out with the</p> <p>23 clinic, we would have noted that on the</p>

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<p>1 file as to approve the extension.</p> <p>2 Q. And do you have any recollection as to</p> <p>3 whether y'all ever did that?</p> <p>4 A. I don't recall. There may have been</p> <p>5 nurse reviewers that may have done</p> <p>6 that.</p> <p>7 Q. How many patients over this period of</p> <p>8 time or PAs, I guess, would y'all</p> <p>9 receive on the average in a week from</p> <p>10 all providers during the time when you</p> <p>11 were working at Medicaid?</p> <p>12 A. We would always refer to monthly PAs --</p> <p>13 Q. Monthly is fine.</p> <p>14 A. -- received. And we would receive</p> <p>15 anywhere from six hundred to two</p> <p>16 thousand PA requests.</p> <p>17 Q. And were there PA requests from other</p> <p>18 providers that also had mistakes in</p> <p>19 them, errors or omissions of</p> <p>20 information?</p> <p>21 A. Yes.</p> <p>22 Q. Including dates?</p> <p>23 A. Well, we -- I had not recalled running</p>	<p>1 information.</p> <p>2 Q. I mean, if I wanted to mislead</p> <p>3 Medicare, wouldn't I fill in a false</p> <p>4 date before I gave it to you, rather</p> <p>5 than leave it blank?</p> <p>6 A. I don't know.</p> <p>7 Q. But can we agree that the absence to</p> <p>8 put in a date could be accidental?</p> <p>9 A. Yes, could be.</p> <p>10 Q. At the time that your staff -- in</p> <p>11 Plaintiff's Exhibit #6, the</p> <p>12 February 16, 2005, memorandum, at the</p> <p>13 time your staff was calling CRS and the</p> <p>14 PTs about errors or perceived errors or</p> <p>15 omissions in the PA requests, did you</p> <p>16 ever call Emily or any of the people at</p> <p>17 National System and ask them if they</p> <p>18 had an explanation for that?</p> <p>19 A. During this particular instance, Gerry</p> <p>20 Rodgers had indicated to Teresa that</p> <p>21 she could get the dates from Emily.</p> <p>22 Q. But my question was, if y'all believed</p> <p>23 there was something wrong here, did you</p>
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<p>1 across any others with missing dates.</p> <p>2 Q. Could there have been others with</p> <p>3 missing dates or you're saying you just</p> <p>4 don't recall one --</p> <p>5 A. It could.</p> <p>6 Q. -- way or the other?</p> <p>7 A. I have not been made aware of that.</p> <p>8 Q. But you received others that had</p> <p>9 missing information in them?</p> <p>10 A. Sure. Yes.</p> <p>11 Q. And you didn't necessarily think that</p> <p>12 was an attempt to defraud Medicare, did</p> <p>13 you?</p> <p>14 A. No, because it didn't refer to a date.</p> <p>15 Q. But if there's a date missing -- how</p> <p>16 did you make a determination or did you</p> <p>17 make a determination whether or not it</p> <p>18 was just a mistake on the part of</p> <p>19 someone or an attempt to mislead</p> <p>20 Medicare?</p> <p>21 A. We -- I didn't naturally assume that it</p> <p>22 was an attempt to mislead. It is just</p> <p>23 missing, so we would try to get that</p>	<p>1 ever call National Seating to get their</p> <p>2 side of the story?</p> <p>3 A. Well, we -- I think the nurses would</p> <p>4 have called the PT that actually headed</p> <p>5 up the assessment in that clinic.</p> <p>6 Q. But the PAs were coming from National</p> <p>7 Seating; is that correct?</p> <p>8 A. Yes.</p> <p>9 Q. Did you ever call National Seating to</p> <p>10 get their version of the story to find</p> <p>11 out if they could explain the apparent</p> <p>12 error or omission?</p> <p>13 A. I don't recall.</p> <p>14 Q. If you did, you didn't put it in this</p> <p>15 memorandum, did you?</p> <p>16 A. That's correct.</p> <p>17 Q. What does that -- if you would please</p> <p>18 look at the February 16, '05,</p> <p>19 memorandum. And in -- oh, well, never</p> <p>20 mind. Scrap that. That's okay.</p> <p>21 In your memorandum, in the third</p> <p>22 paragraph here -- and I'll read it --</p> <p>23 you state: It is odd that on the</p>

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<p>1 assessments that Mr. Maddox has done</p> <p>2 for other vendors have a date on them,</p> <p>3 comma, but the ones done for National</p> <p>4 Seating do not have dates. Did y'all</p> <p>5 review all of the assessments done by</p> <p>6 Mr. Maddox before you made that</p> <p>7 statement?</p> <p>8 A. We had pulled some of the assessments</p> <p>9 that were done by him.</p> <p>10 Q. Some or all?</p> <p>11 A. I'm not sure if they were all. I</p> <p>12 instructed staff to just pull --</p> <p>13 Q. What exactly did you tell staff to do?</p> <p>14 A. Just pull the -- all of the PT</p> <p>15 assessments that were done by</p> <p>16 Mr. Maddox.</p> <p>17 Q. For what period of time?</p> <p>18 A. I don't recall.</p> <p>19 Q. And you don't --</p> <p>20 A. We would have had some way of knowing;</p> <p>21 and in the requests that were already</p> <p>22 pending, they could go through those</p> <p>23 that were pending as well.</p>	<p>1 first it looks like it's 10/1 something</p> <p>2 through 12/31/04; is that correct?</p> <p>3 A. Yes.</p> <p>4 Q. And you can't make out what year it is</p> <p>5 because it looks like a hole was</p> <p>6 punched in the original?</p> <p>7 A. Yes.</p> <p>8 Q. Do those dates have any particular</p> <p>9 meaning?</p> <p>10 A. No.</p> <p>11 Q. The July 9, 2004, memo, which is</p> <p>12 Plaintiff's Exhibit #9, I believe you</p> <p>13 told Mr. Stewart that you would have</p> <p>14 done this memorandum within a day or</p> <p>15 two after Ms. Horton called you?</p> <p>16 A. It might have been. It wouldn't have</p> <p>17 been a month.</p> <p>18 Q. All right. The same day or reasonably</p> <p>19 close to that?</p> <p>20 A. Possibly.</p> <p>21 Q. And this was a call that Ms. Horton</p> <p>22 made to you personally?</p> <p>23 A. Yes.</p>
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<p>1 Q. So did they just look at the ones in</p> <p>2 pending or did they look back to the</p> <p>3 ones that had already been completed or</p> <p>4 do you know?</p> <p>5 A. I think they looked at all the ones</p> <p>6 that had been done before as well as</p> <p>7 the ones that were in their baskets to</p> <p>8 be completed.</p> <p>9 Q. But you told me earlier you weren't</p> <p>10 certain that they had looked at all of</p> <p>11 them.</p> <p>12 A. It would not -- I don't know if they</p> <p>13 looked at all of them.</p> <p>14 Q. Do you know what percentage of the ones</p> <p>15 he did they looked at?</p> <p>16 A. No, I don't know.</p> <p>17 Q. Ms. Barrow, do you have that provider</p> <p>18 eligibility screen -- oh, here we go.</p> <p>19 You can just look at mine. This is a</p> <p>20 document that you were asked about but</p> <p>21 it wasn't marked as an exhibit. And it</p> <p>22 has some dates across the top</p> <p>23 handwritten in, and I just wondered --</p>	<p>1 Q. And did anyone else listen in to that</p> <p>2 call?</p> <p>3 A. No.</p> <p>4 Q. Just the two of you? Did you make a</p> <p>5 tape of it or anything?</p> <p>6 A. No, I didn't.</p> <p>7 Q. How long did that call last?</p> <p>8 A. I don't recall.</p> <p>9 Q. Did you take any steps to confirm or</p> <p>10 try to verify the accuracy of the</p> <p>11 information that she gave you before</p> <p>12 you wrote this memorandum and sent it</p> <p>13 to Ms. Winters?</p> <p>14 A. No. I just indicated alleged</p> <p>15 fraudulent activity and forwarded it</p> <p>16 through my supervisor.</p> <p>17 Q. So you were not vouching for it one way</p> <p>18 or the other. You're saying we</p> <p>19 received this report, here it is?</p> <p>20 A. Yes.</p> <p>21 (Brief pause)</p> <p>22 Q. Who sent PAs to your office from</p> <p>23 National Seating?</p>

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<p>1 A. They would come through EDS, our fiscal</p> <p>2 agent, and they would send them to us.</p> <p>3 Q. So do you know what person at National</p> <p>4 Seating sent those forward to you?</p> <p>5 A. No.</p> <p>6 Q. Did you come out to the National</p> <p>7 Seating office one time with children</p> <p>8 in your car?</p> <p>9 A. No.</p> <p>10 Q. And more specifically, did you come out</p> <p>11 with children in your car and did</p> <p>12 Elizabeth Horton come out and talk to</p> <p>13 you while you stayed in your car?</p> <p>14 A. I don't recall that.</p> <p>15 Q. Who were the people on your staff at</p> <p>16 the time you wrote the July 9, 2004,</p> <p>17 memorandum? There was you.</p> <p>18 A. Yes. There was Teresa Surles, Debbie</p> <p>19 Flournoy.</p> <p>20 Q. Can you spell her last name, please?</p> <p>21 A. F-L-O-U-R-N-O-Y.</p> <p>22 Q. Okay.</p> <p>23 A. Sheila McDaniel. Hazel -- I can't</p>	<p>1 Q. T-H-O-M-P-S-O-N?</p> <p>2 A. Yes. And Carolyn Thomas.</p> <p>3 Q. C-A-R-O-L-Y-N, Thomas, T-H-O-M-A-S?</p> <p>4 A. Yes.</p> <p>5 Q. And were -- I'm sorry, ma'am. I didn't</p> <p>6 mean to cut you off.</p> <p>7 A. Sheryl Yelder.</p> <p>8 Q. C-H-E-R-Y-L?</p> <p>9 A. S-H-E-R-Y-L.</p> <p>10 Q. S-H-E-R-Y-L. How do you spell that</p> <p>11 last name?</p> <p>12 A. Yelder, Y-E-L-D-E-R.</p> <p>13 Q. Okay.</p> <p>14 A. Janice --</p> <p>15 Q. You had a big staff.</p> <p>16 A. Uh-huh. Oh, what's Janice's last name?</p> <p>17 I can't think of Janice's last name.</p> <p>18 And I think that was it.</p> <p>19 Q. Now, did all of these people have more</p> <p>20 or less the same job?</p> <p>21 A. No. Some of them are nurses and some</p> <p>22 of them are clerical.</p> <p>23 Q. Which ones are nurses?</p>
Page 126	Page 128
<p>1 think of Hazel's last name right now.</p> <p>2 Kathy --</p> <p>3 Q. Is that Kathy with a C or a K?</p> <p>4 A. With a K. Kathy Hardwick.</p> <p>5 Q. H-A-R-D-W-I-C-K?</p> <p>6 A. Yes. Janet Moore.</p> <p>7 Q. M-O-O-R-E?</p> <p>8 A. Yes. Jerry Sanders.</p> <p>9 Q. Is that G-E-R-R-Y?</p> <p>10 A. J.</p> <p>11 Q. J-E --</p> <p>12 A. -- R-R-Y.</p> <p>13 Q. S-A-N-D-E-R-S?</p> <p>14 A. Yes.</p> <p>15 Q. Is that a male or female?</p> <p>16 A. Male.</p> <p>17 Q. And all the others are female so far?</p> <p>18 A. Yes.</p> <p>19 Q. Okay.</p> <p>20 A. I think Angela Arrington, Carolyn</p> <p>21 Thompson.</p> <p>22 Q. L-Y-N?</p> <p>23 A. Yes.</p>	<p>1 A. Teresa Surles, Debbie Flournoy, Sheila</p> <p>2 McDaniel, Hazel -- let me see --</p> <p>3 Carolyn Thompson. And I'm missing a</p> <p>4 nurse.</p> <p>5 Q. And one other anonymous, can't think of</p> <p>6 her name right now?</p> <p>7 A. I can't think right now. I'm sorry.</p> <p>8 Q. That's okay. That happens to me, too.</p> <p>9 A. Janet Moore was an accounting</p> <p>10 technician. Jerry Sanders was a</p> <p>11 Medicaid administrator.</p> <p>12 Q. What was his job?</p> <p>13 A. He was the former associate director in</p> <p>14 the division.</p> <p>15 Q. And did he verify PAs too and that sort</p> <p>16 of thing?</p> <p>17 A. Yes, sometimes.</p> <p>18 Q. Essentially the same job as the nurses?</p> <p>19 A. Somewhat.</p> <p>20 Q. All right.</p> <p>21 A. Angela Arrington was clerical; Carolyn</p> <p>22 Thomas, clerical. Sheryl Yelder was a</p> <p>23 benefits specialist. Janice was a</p>

32 (Pages 125 to 128)

MERRILL LEGAL SOLUTIONS
Court Reporting*Legal Videography*Trial Services

Page 129	Page 131
<p>1 benefits specialist.</p> <p>2 Q. And that other nurse was also --</p> <p>3 A. Jean Luther.</p> <p>4 Q. Jean Luther?</p> <p>5 A. Yes.</p> <p>6 Q. J-E-A-N?</p> <p>7 A. Yes.</p> <p>8 Q. L-U-T-H-E-R?</p> <p>9 A. Yes.</p> <p>10 Q. A female?</p> <p>11 A. Yes.</p> <p>12 Q. Thank you. I think that might be it</p> <p>13 for me. That is it for me. Thank you</p> <p>14 very much.</p> <p>15 MR. WALKER: You got</p> <p>16 anything?</p> <p>17 MR. WALLACE: I do.</p> <p>18 EXAMINATION</p> <p>19 BY MR. WALLACE:</p> <p>20 Q. I'm Jack Wallace. I represent Gerald</p> <p>21 Shockley, who interviewed you from the</p> <p>22 attorney general's office. Have you</p> <p>23 been involved in many investigations</p>	<p>1 known one to be arrested. So that</p> <p>2 was -- that was the first for me in</p> <p>3 that type of situation.</p> <p>4 Q. But, then, you've not really been</p> <p>5 involved in any other investigations,</p> <p>6 though?</p> <p>7 A. No. No.</p> <p>8 Q. And would you say that it was -- strike</p> <p>9 that thought that wasn't going</p> <p>10 anywhere.</p> <p>11 MR. WALLACE: That's all I</p> <p>12 have. Thank you.</p> <p>13 MR. WALKER: Chuck, you have</p> <p>14 something else?</p> <p>15 MR. STEWART: No.</p> <p>16 MR. WALKER: We're done.</p> <p>17 MS. NICKSON: Yeah, we are</p> <p>18 done.</p> <p>19 MR. STEWART: Ms. Barrow,</p> <p>20 thank you for coming in.</p> <p>21 * * * * *</p> <p>22 FURTHER DEPONENT SAITH NOT</p> <p>23 * * * * *</p>
Page 130	Page 132
<p>1 before?</p> <p>2 A. No.</p> <p>3 Q. And in fact, do I remember perhaps</p> <p>4 you've only been involved in these two</p> <p>5 investigations?</p> <p>6 A. Yes.</p> <p>7 Q. But Medicaid Agency has seven, eight,</p> <p>8 nine investigators and they investigate</p> <p>9 people fairly frequently.</p> <p>10 A. Yes.</p> <p>11 Q. And it's a matter of routine, just</p> <p>12 doing business with the state, is it?</p> <p>13 A. I would imagine.</p> <p>14 Q. Was there anything that would make you</p> <p>15 think that Gerald Shockley was doing</p> <p>16 anything other than his job and just</p> <p>17 routinely investigating the allegations</p> <p>18 that he had before him?</p> <p>19 A. I'm not sure.</p> <p>20 Q. Okay.</p> <p>21 A. Just from my experience at Medicaid</p> <p>22 from people who have called to make</p> <p>23 complaints against vendors, I've never</p>	<p>1 REPORTER'S CERTIFICATE</p> <p>2</p> <p>3 STATE OF ALABAMA)</p> <p>4)</p> <p>5 ELMORE COUNTY)</p> <p>6</p> <p>7 I do hereby certify that the above</p> <p>8 and foregoing transcript was taken down</p> <p>9 by me in stenotype, and the questions</p> <p>10 and answers thereto were transcribed by</p> <p>11 means of computer-aided transcription,</p> <p>12 and that the foregoing represents a true</p> <p>13 and correct transcript of the testimony</p> <p>14 given by said witness.</p> <p>15 I further certify that I am neither</p> <p>16 of counsel, nor of any relation to the</p> <p>17 parties to the action, nor am I anyway</p> <p>18 interested in the result of said cause.</p> <p>19</p> <p>20 Barbara A. Howell, Certified</p> <p>21 Court Reporter and Commissioner</p> <p>22 for the State of Alabama at Large</p> <p>23 ACCR NO. 123 - Expires 9/30/08</p> <p>MY COMMISSION EXPIRES: 12/27/08</p>

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ALABAMA MEDICAID AGENCY

February 16, 2005

MEMORANDUM

To: Mary G. McIntyre, M.D., M.P.H.
Medical Director
Office of the Commissioner

From: Felecia S. Barrow, M.P.A.
Associate Director
Prior Approval Unit

Re: Issues with Wheelchair Assessments Received

Please find attached examples of wheelchair assessments that have been submitted by National Seating and Mobility - Montgomery, that were missing the clinic dates. Two of the assessments were conducted by Gerry Rodgers, P.T. and one by Michael Maddox, R.P.T., both of Children's Rehab Services.

Teresa Surles, R.N. questioned the assessments and was told (by Gerry Rodgers) to get the dates from Emily, National Seating. I informed Teresa that the clinic dates should be kept at CRS where the assessment was conducted. Teresa, under my direction, contacted CRS to get the clinic date instead of Emily. Jackie (CRS) informed Teresa that the date of the clinic appointment was July 20, 2004. The PA request was submitted in February 2005. A subsequent fax was received from Gerry Rodgers indicating that the assessment was reviewed on 2/15/05 and was "still o.k." I conferred with Teresa and Debbie and thought that we needed updated clinic notes telling us the current condition of the client. On another client, both the physician's note of medical necessity and the P.T. assessment were lacking dates.

Teresa came across another assessment completed by M. Maddox and placed a call to the P.T. to find out why the date was missing. The P.T. replied, "...maybe we're not supposed to do this (pause), but I never put dates on the assessments or the prescriptions because it messes up the vendor"... "like, we're on a time clock..." It is odd that on the assessments that Mr. Maddox has done for other vendors have a date on them, but the ones done for National Seating do not have dates. This was the same information that was reported by former National Seating employee, Elizabeth Horton.

I would like to refer this information to Clifford Johnson, Chief Investigator, Program Integrity Division. If it is too premature at this point, I will wait.

PLAINTIFF'S
EXHIBIT

6-Barrow

CHILDREN'S REHABILITATION SERVICE REPORT OF VISIT

SSN: PATIENT: KATIE LYNN SMITH DATE:

Katie Lynn is a cute little 4-year-old. She is very premature. She had hydrocephalus and CP. Mary has followed her and is concerned with her left hip and her right heelcords. On exam, there are problems with the left leg and left tendo-achilles. There are definitely tight, and I cannot get it quite to neutral. Right side is passively correctable, but she does have increased tone, and she likes to hold it in equinos. On my exam, the hips feel steady and leg lengths appear to be equal. I really think an AP and frog lateral hip x-rays would be appropriate. We are going to do serial casting on the left leg. She will need a set of fixed AFOs. I will see her back in this clinic in three months.

(Joseph Curtis, M.D.)/sl

CHILDREN'S REHABILITATION SERVICE REPORT OF VISIT

SSN: PATIENT: KATIE LYNN SMITH

PHYSICAL THERAPY:

Katie Lynn is unable to ambulate and needs a chair for mobility. She is getting too long to be carried and she has good use of her upper extremities so we would like for her to be able to push some whe she is in a seated position. She goes to daycare at school, and they need a way to get her around in these areas also. I feel that at this point due to the family situation, we may need to get a stroller that can be transported in many different vehicles that is easy to fold up and easy to get around. We can also get some large wheels where she can push herself on it sometimes. Katie Lynn can sit up with hand supports so I feel like with a five-point harness, she could sit up in the stroller very well. A prescription for this was given to Don from National Seating and Mobility today. She does not have current EPSDT, and once this is done, we need to get a copy and forward it over to National Seating along with a copy of this clinic dictation so that they can submit it to Medicaid. Once it is approved, I will be ordered. When it comes in, we will schedule a time for delivery. She had a wheelchair recommended a couple of years ago through Seating Clinic. It was approved and ordered, but we were never able to get a hold of the family for delivery, so the chair had to be sent back. Katie Lynn much larger than she was then, so what we ordered then would not be appropriate, and we need a new seating system this time.

~~001305040010~~

(Garry Rodgers, PT, PCS)/sl

CHILDREN'S REHABILITATION SERVICE
REPORT OF VISIT

SSN: 424-25-9551

PATIENT: JASMINE WILLIAMS

PHYSICAL THERAPY:

Jasmine's seating system has been wearing out. Foam is visible through most of the different pads and seating systems. In addition, her scoliosis has worsened, and her spine is actually shortened, so the back is too tall. In addition, the back posts get out of whack according to the mom. They were uneven today, and I evened them back up. I described the rigidizing bar that would go in-between there, but it would be one more step in folding the chair. Mom would like to go ahead and do this. We need to repair the brake on the left side of the chair. Otherwise, the frame is in pretty good shape. I do think that we need to get her new seating to continue to support her in her wheelchair. She needs a solid seat and back, thoracic pads and hip guides to keep her trunk and hips in the midline. She needs an abductor to keep her hips apart. Her right leg tends to adduct excessively. She needs a three-piece headrest for posterior and lateral head support. She needs a rigidizer bar to keep the frame from getting out of line and brake repair on the left. EPSDT and prescription were given to family from National Seating and Mobility. We need to send a copy of this clinic dictation to her so that she can submit it to Medicaid. Once the approval is received from Medicaid, the chair will be ordered. When it comes in, we will schedule a time for delivery.

(Genny Rodgers, PT, PCS)/sl

(7/20/04 per Jackson)

[3771_001.pdf]

14

14 Durable Medical Equipment (DME)

Medicaid authorizes supplies, appliances, and durable medical equipment (DME) to Medicaid recipients of any age living at home. A provider of these benefits must ensure the following:

- The supplies, appliances, and DME are for medical therapeutic purposes.
- The items will minimize the necessity for hospitalization, nursing facility, or other institutional care.

The attending physician is responsible for ordering the items in connection with his or her plan of treatment. The attending physician must be a licensed, active, Alabama Medicaid provider. The DME provider is responsible for delivering and setting up the equipment as well as educating the recipient in the use of the equipment.

Request for coverage of durable medical equipment must be received by EDS within thirty days after the equipment is dispensed. When the request is not received within the thirty day time frame for ongoing rental equipment (such as apnea monitors, pulse oximeters, oxygen, cpap machines, ventilators, bipap machines, compressors) the thirty days will be calculated from the date the prior authorization request is received by EDS. All prior authorization requests received with a date greater than thirty days from dispensed date will be assigned an effective date based on actual date received by EDS if the recipient continues to meet medical criteria. No payment will be made for the days between the dispensed date and the date assigned by the Prior Authorization Unit.

NOTE:

A recipient does not have to be a Home Health Care recipient in order to receive services of this program.

The policy provisions for DME providers can be found in the *Alabama Medicaid Agency Administrative Code*, Chapter 13.

14.1 Enrollment

EDS enrolls supply, appliance, and durable medical equipment providers and issues provider contracts to applicants who meet the licensure and/or certification requirements of the state of Alabama, the Code of Federal Regulations, the *Alabama Medicaid Agency Administrative Code*, and the *Alabama Medicaid Provider Manual*. A copy of your approved Medicare enrollment application is required.

Refer to Chapter 2, Becoming a Medicaid Provider, for general enrollment instructions and information. Failure to provide accurate and truthful information or intentional misrepresentation might result in action ranging from denial of application to permanent exclusion.

Provider Number, Type, and Specialty

A provider who contracts with Medicaid as a DME provider is issued a nine-digit Alabama Medicaid provider number that enables the provider to submit requests and receive reimbursements for DME-related claims.

**PLAINTIFF'S
EXHIBIT**

7-Barrow

January 2005

14-1

Horton V. Williams-0015

[3771_001.pdf]

Durable Medical Equipment (DME)**NOTE:**

All nine digits are required when filing a claim.

DME providers are assigned a provider type of 91 (DME). The valid specialty for DME providers is Durable Medical Equipment/Oxygen (V4).

Enrollment Policy for DME Providers

To participate in the Alabama Medicaid Program, DME providers must meet the following requirements:

- The provider's business must have a physical location in the state of Alabama or within a 30-mile radius of the Alabama state line. This requirement does not apply to Medicare crossover providers.
- There must be at least one person present to conduct business at the physical location. Answering machines and/or answering services are not acceptable as personal coverage during normal business hours (8:00 a.m. – 5:00 p.m.) The provider may serve all counties adjoining the county in which he has a business license and is physically located. Satellite businesses affiliated with a provider are not covered under the provider contract; therefore, no reimbursement will be made to a provider doing business at a satellite location, however the satellite could enroll with a separate provider number.
- Medicaid will enroll manufacturers of augmentative/alternative communication devices (ACDs) regardless of location.
- The provider shall have no felony convictions and no record of willful or grossly negligent noncompliance with Medicaid or Medicare regulations.

14.2 Benefits and Limitations

This section defines durable medical equipment, discusses Medicaid policy for supplying medical supplies and appliances as a DME provider, discusses prior authorization for DME, provides a listing of non-covered services, and describes reimbursement policy. Refer to Chapter 3, Verifying Recipient Eligibility, for general benefit information and limitations.

14.2.1 Supplies, Appliances, and DME

Deleted:
Supplies and
Appliances

Added:
Supplies,
appliances,
and DME

A written order or a signed prescription from the attending physician to a participating supplier determines medical necessity for covered items of supplies and appliances. A prescription is considered to be outdated by Medicaid when it is presented to a provider to be filled past sixty days from the date it was written. Prior authorization by Medicaid is not required for supplies and appliances except for when more than the Medicaid allowed units are required (i.e. blood glucose test strips and lancets).

The recipient or their authorized representative is responsible for obtaining the prescription from the attending physician for Medicaid-covered items and taking it to a participating Alabama Medicaid DME provider.

Upon receipt of the prescription, the DME provider must:

- Verify Medicaid eligibility by checking the RID number and verifying that number using AVRS, AEVCS or the Provider Assistance Center at EDS

[3771_001.pdf]

Durable Medical Equipment (DME) **14**

- Obtain necessary managed care referrals and prior authorization
- Collect the appropriate copayment amount
- Furnish the covered item(s) as prescribed
- Retain the prescription on file
- Submit the proper claim form to EDS

Upon furnishing durable medical equipment/supplies, the supplier should obtain a signature on any form he/she desires indicating that the equipment/supplies have been received by the recipient. If the recipient is unable to sign for the equipment/supply items the supplier should verify the identity of the person signing for the items, i.e. relative, homehealth worker, neighbor.

14.2.2 Durable Medical Equipment

Medicaid covers new durable medical equipment items for long-term use, long term use is defined as the use of durable medical equipment that exceeds six months. New durable medical equipment items for EPSDT related services may be rented for six months or less.

Durable medical equipment is necessary when it is expected to make a significant contribution to the treatment of the recipient's injury or illness or for the improvement of physical condition.

As defined by Medicaid, durable medical equipment is equipment that meets the following conditions:

- Can stand repeated use
- Serves a purpose for medical reasons
- Is appropriate and suitable for use in the home

The cost of the item must not be disproportionate to the therapeutic benefits or more costly than a reasonable alternative. The item must not serve the same purpose as equipment already available to the recipient.

Providers should be aware of Medicaid policy regulating medical necessity for durable medical equipment. The policy is described below for DME covered by Medicaid.

Warranty, Maintenance, Replacement, and Delivery

All standard durable medical equipment must have a manufacturer's warranty of a minimum of one year. If the provider supplies equipment that is not covered under a warranty, the provider is responsible for repairs, replacements and maintenance for the first year. The warranty begins on the date of delivery (date of service) to the recipient. The original warranty must be given to the recipient and the provider must keep a copy of the original warranty for audit review by Medicaid. Medicaid may request a copy of the warranty.

Medicaid covers repair of standard durable medical equipment. These services must be prior approved by Medicaid. Medical documentation submitted must support the need for servicing of the equipment. Providers should submit their usual and customary charges for the service.

Requests for items that are covered by Medicaid which are outside the normal benefit limits, due to damage beyond repair or other extenuating circumstances must be submitted to the Long Term Care Division for review and consideration. Request for repair/replacement due to extenuating circumstances should be mailed to, Alabama Medicaid Agency, 501 Dexter Ave., LTC Division, Montgomery AL, 36103.

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Alabama Medicaid Agency

CONFIDENTIAL
MEDICAID
COMPLAINT

CASE NBR: 8-04-0150DATE ASSIGNED: 8/2/04

ASSIGNED TO: _____

COMPLAINANT

Prior Approval Unit +
Provider Review Unit

SUBJECT

National senting + mobility
#00981435

COMPLAINTRECEIVED BY: C. J.DATE RECEIVED: 7-12-2004**REFERRED BY:**☐ P & S☐ Intra-Agency☐ Interagency☐ Telephone☒ Memo/Letter☐ OtherALLEGATION: Fraudulent billing activities

SUMMARY: See attached memo dated 7-9-2004 in
case # 8-3-0144 done on the subjected
provider for alleged allegations.

INVESTIGATOR: _____

DISPOSITION: _____

CASE REFERRED TO: _____

PLAINTIFF'S
EXHIBIT

8-Barrow

APPROVED _____

Horton V. Williams-0013

[3771_001.pdf]

ALABAMA MEDICAID AGENCY

July 9, 2004

MEMORANDUM

To: Rochelle Winters, Associate Director
Recipient Review Unit
Program Integrity Division

Thru: Lee Maddox, Deputy Commissioner
Administrative Services

Thru: Mary G. McIntyre, M.D., M.P.H.
Medical Director

From: Felecia S. Barrow, M.P.A.
Associate Director
Prior Approval Unit

Re: Utilization Review Committee Referral - National Seating and Mobility
Provider #: 009814350

7/12/04
Received
7/12/04
JS

This memo serves as a referral of the above-referenced provider for alleged fraudulent activity.

Our Unit has been made aware of the following potential issues...

- Forgery of recipients' signatures on delivery tickets for durable medical equipment;
- Improper billing practices such as submitting requests for reimbursement of repair items that are already in their stock, ordering the wrong part for wheelchair repairs and subsequently submitting additional PA requests for the same client where the item had already been requested and paid;
- Instructing clients to deliberately leave the date section blank on the delivery ticket so that they may manipulate the date based on the PA conditional approval received from Medicaid;
- Holding requests with outdated prescriptions (Rx) and when Medicaid informs that they must submit a current Rx, they indicate a current date on the old Rx.

More detailed information and specific examples will be provided to you if requested.

A former employee of the company is willing to provide information necessary to assist in any investigation conducted. This ex-employee has filed a Quai Tam lawsuit with the Attorney General's Office.

Should you need additional information, please do not hesitate to contact me at 2-5233 or Debbie Flounoy, RN, Nurse Supervisor, at 3-5949. Thanks.

**PLAINTIFF'S
EXHIBIT**

9-Barrow

ALABAMA ATTORNEY GENERAL'S OFFICE
MEDICAID FRAUD DIVISION
INTERVIEW REPORT FORM

May 9, 2005
TRANSCRIPTION DATE

Interview of Don Williams
Matter ID #77282-001

Mr. Don Williams, Office Manager, National Seating and Mobility, 646 Oliver Road Montgomery, AL 36117, telephone phone #334-273-1112. After being advised of the identity of the interviewing investigator, and that the nature of the interview was to verify that certain Medicaid recipients had received wheelchairs which had been billed to Medicaid by National Seating and Mobility, Mr. Williams furnished the following information. Mr. Williams stated emphatically that he nor any of his staff has ever billed anyone for wheelchairs not delivered.

At random, I selected four Medicaid recipients who had, according to documentation, received wheelchairs from National Seating and Mobility. Those four names are as follows: Travis Smith, Candace Dix, Tyler Balles, and Austin Dennis.

After a review of his records, Mr. Williams made available delivery tickets bearing the name of the sponsor signature acknowledging receipt of the wheelchairs in each of the above four named cases. There is a delivery ticket signed by the sponsor to the recipient.

Mr. Williams was very adamant that National Seating and Mobility has never submitted a false document claiming delivery of a wheelchair; that on each document submitted to Medicaid for payment, there was the delivery of a wheelchair. Mr. Williams speculated that a previous employee of National Seating and Mobility had falsely made allegations against him and his business. He advised he suspects Elizabeth Horton had made the allegation that he had fraudulently billed medicaid for wheelchairs not delivered. He advised that the reason he suspects Elizabeth Horton is because it was necessary for him to terminate her from National Seating and Mobility. He advised that she worked at National Seating and Mobility for a short period of time, approximately two to three months during 2004. He said one of the reasons he had to discontinue her services was that she was associating a lot of time with a Felcia Barrows of the Medicaid Agency. He advised that he cautioned her on a number of occasions that a contractor such as National Seating and Mobility had to be very careful when dealing

DATE OF INTERVIEW May 5, 2005 AT Montgomery, AL

BY Gerald G. Shockley SPECIAL AGENT

FILE #77282-001

**PLAINTIFF'S
EXHIBIT**

10-Barrow

Page 2

File #77282-001

with the contracting state agency so as not to violate the ethics laws. He advised that due to her work ethics and the uncomfortable relationship she had with Felicia Barrows, he called Kelly Services, Elizabeth Horton's employer, and requested Mrs. Horton not be sent back to National Seating and Mobility. It is his understanding that Kelly Services thereafter terminated Elizabeth Horton.

Richard Keeshan, Alabama Attorney General's Office, was present during the above interview.

ALABAMA ATTORNEY GENERAL'S OFFICE
MEDICAID FRAUD DIVISION
INTERVIEW REPORT FORM

June 23, 2005
TRANSCRIPTION DATE

Interview with Felecia Barrow
Employee of the Medicaid Agency

SHOCKLEY:

This is Gerald Shockley, I'm with the Alabama Attorney General's Office. Today's date is June 15, 2005. It's approximately 2:05 p.m. and I'm in the office of Mr. Cliff Johnson, Investigator with Medicaid Agency. Also present is Felecia Barrow and Mr. Richard Keeshan of the Alabama Attorney General's Office. I'm here for the purpose of talking with Felecia concerning....(phone rings) OK, I just turned the tape recorder off briefly for Mr. Johnson to take a phone call. We are back on tape now. As I was stating, we're here to talk with Ms. Barrow concerning the case that has been referred to us concerning National Seating and Mobility of a durable medical equipment supplier of wheelchairs for Medicaid recipients and we've been talking for the past few minutes and Felecia what I would like to do at this point is just ask you what information you have concerning an allegation that was made that National Seating and Mobility was billing for wheelchairs not delivered. Did you receive the initial complaint or how did it come to you?

BARROW:

Well, the complaint came to me, as a result of, a former employee, the person who was employed with the company at the time, Elizabeth had contacted the agency once she had been terminated from employment. The termination came about as a result of a visit that I made to the fielding, since they were in Montgomery, I thought that it would be wise for us to kind of go out there and see what their operations looked like. We don't get an opportunity to do that much, so I went ahead and took the liberty of going out there and, informed Elizabeth that I would be coming, she introduced me to one of the employees there, I think his name was Don, I believe at the

DATE OF INTERVIEW June 15, 2005 AT Montgomery, AL

BY Gerald G. Shockley SPECIAL AGENT

FILE #77282-002

PLAINTIFF'S
EXHIBIT

11-Barrow

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time when I met him, he just went about his way, I told him that I was from Medicaid and after I left I just noticed the things in the building and their files, how they kept their files, once I left, I understand that they had told her the very next day that she, her services were no longer required and because she was too friendly with Medicaid and they could not have that so I didn't understand any of that. I didn't understand their hiring practices one way or another. She was a temporary employee so it really, you know, didn't there was no reason that I should even get involved in any of that. However, she did call us to tell us at Medicaid that there had been several requests that she had been privy to that were submitted to Medicaid requesting parts for repairs to wheelchairs, things of that nature where they had parts already they would get parts from some other store, repair the wheelchair, send the client on their way but they would bill Medicaid as if they were purchasing brand new parts. Uh, she also informed that there were several requests that we had received on clients where the date, the prescription date, because we require that physicians prescribe the equipment before we can even review it. Uh, the prescription date, uh, were missing from the prescription and they would write in or either white it out and write it in, you know, write in a more recent date, uh, because we consider a request to be outdated if the prescription exceeds 60 days.

SHOCKLEY: Let me slow you down just a minute.

BARROW: Sure.

SHOCKLEY: Let me go back and make sure I understand....

BARROW: Uhmm.

SHOCKLEY: What you're saying. The Elizabeth that you're talking about is Elizabeth Horton?

BARROW: Elizabeth Horton.

SHOCKLEY: And, and you say the prescription dates had been whited out? Was that part of the allegation or is that part of the evidence that you saw?

BARROW: Well now that was part of the allegation.

SHOCKLEY: Okay so you didn't....

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BARROW: This is what she was telling us.

SHOCKLEY: Okay so she didn't show you any documentation. She was just telling you about it?

BARROW: Exactly.

SHOCKLEY: Have you seen any documentation that would support that?

BARROW: No, I haven't seen any documentation; however, there was, uh, an assessment uh, a wheelchair assessment that was completed by one of the physical therapists and he informed one of my staff, Teresa Sorrells, that they do not date the assessment. And they, she asked why, they don't date them.

SHOCKLEY: You say they don't date them. Who?

BARROW: The PT, the physical therapists when they complete an assessment on a client for a wheelchair or for any specialized equipment, uh, they conduct an assessment, they come to clinic, the client will come to clinic on a certain day and they're supposed to document the date that client showed up at clinic because we need to know when the assessment was done and make sure that the DME Company in turn will order that equipment timely send in a prior approval request before that condition changes for that client.

SHOCKLEY: Okay, let me slow you down one more time.

BARROW: Uhmm.

SHOCKLEY: You say a clinic, uh, explain to me what a clinic is. They come to a clinic, who sets this clinic up, who establishes and what happens at a clinic?

BARROW: Well, uh, the primary care doctor for the client will normally refer them to a physical therapist, uh, the clinic that we deal with most of the time with Medicaid is Children's Rehab Services, uh, they have clinics in several different parts of the state but there all under one umbrella of Alabama Department of Rehab Services.

SHOCKLEY: Uhmm.

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BARROW:

Uh, we call it the CRS Clinic. The client wherever they are located will be referred to, let's say CRS Clinic. Uh, physical therapist there will do an evaluation of the child. They normally see the child quite often because of other things, uh, that the child would need. So they would go to the clinic, they would have an assessment done. They would say okay this is the type wheelchair you need and these are the accessories you need on the wheelchair. They will write up their assessment and 9 times out of 10, sign it, you know with their name and they put a date on it. That, uh, client or the caregiver for that client will take that assessment and sometimes CRS will even fax it. (phone ringing)

SHOCKLEY:

Okay, we just turned the tape recorder off one more time for a phone call and we're back on tape now. And Felicia forgive me for where we were but I think we were into the prior approval and the assessments that a clinic, on a certain day, and that you had some people that were doing assessments and/or therapists not putting an assessment date on there and that was being used and you do that. You need an assessment date because you want it in close proximity to the time the wheelchairs are ordered so the child doesn't change I guess by growth and have different needs and if it's out of date then the wheelchair may not be very good for a very long period of time.

BARROW:

Exactly.

SHOCKLEY:

And that's the reason you need that kind of date. Is that correct?

BARROW:

That's correct.

SHOCKLEY:

Okay go ahead with what the problem is then.

BARROW:

Okay. Uh, on this particular assessment that we received on a child there was no date and uh, we, one of my staff contacted the physical therapist. She brought the information to me and thought that it was a little strange and I said well, let's go ahead and call. Let's contact the physical therapist and find out, you know, what happened and why they didn't date it. Uh, she was told by that physical therapist who sends in several requests on behalf of National Seating, uh, and he informed her that he was told not put a date on it, ever because it would mess up the vendor and she asked him what do you mean by

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mess up the vendor? And he said, oh, I think I may have said too much. Uh, we just are told, we're told not to put dates.

SHOCKLEY: Who is this receiving this conversation?

BARROW: This was uh, Teresa Sorrells in the office who works for me.

SHOCKLEY: Okay.

BARROW: She's one of my nurse reviewers and she was speaking with an M. Maddox. I don't know his first name. It might be Michael, I think.

SHOCKLEY: He's a therapist?

BARROW: He's a physical therapist.

SHOCKLEY: Where is he located?

BARROW: Ohh, let's see where he is because this is the memo that I had done indicating that uh, there was a visit done where he didn't put a date on here. CRS Dothan, he's in the Dothan office, Dothan, AL.

SHOCKLEY: Okay.

BARROW: And uh, he said he didn't want to say much more but that you know if he needed to be dating them then just let him know. It's just that what he was told was never to put a date on them.

SHOCKLEY: Who told, you did he say told him to say that?

BARROW: National Seating and Mobility

SHOCKLEY: Okay, all right.

BARROW: In Montgomery.

SHOCKLEY: Okay, let me go on the allegation that there were recipients that did not receive the wheelchairs and I understand all of this other is important but I want to just get right down to the fraud portion of it though where wheelchairs were paid for that was not delivered.

BARROW: Uhmm.

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SHOCKLEY: Do you have any information concerning or were you given any information names of recipients that allegedly did not receive the wheelchairs and if so, who gave it to you?

BARROW: Well Elizabeth Horton again, uh, provided this information uh, once she was terminated that uh, there she had a file, or had the names of the clients, uh, where there were wheelchair repairs uh, done and the parts were received from other places or that, CR, uh, National Seating, I'm sorry had the part, uh, on site, did not have to order these parts but they would go ahead and repair the wheelchair but submit a prior authorization request to us in order to pay for the part to be reimbursed for a part, but they really weren't being reimbursed for a new part it was just a part that they had.

SHOCKLEY: This is what Elizabeth was telling you?

BARROW: Yes.

SHOCKLEY: Okay, did she give you any names of recipients that would be affected by this?

BARROW: Hmm, I think she did provide me with a few names and I think I had, uh, put all that information together to send uh here to investigations, uh, and I would have my copy of, you know, of what I had uh submitted.

SHOCKLEY: She was interviewed by Mike Roeder, who has since retired from the Medicaid Fraud Control Unit, the Attorney General's Office.

BARROW: Yes.

SHOCKLEY: And she was saying there were a lot of chairs that were not delivered.

BARROW: Hmm.

SHOCKLEY: I hear you talking about parts. Are you familiar with the allegation that there was chairs not delivered?

BARROW: I think that she had mentioned something like that to me but there was nothing that I witnessed in the office from the request that we received that would indicate or calls from recipients that, hey I didn't get my chair from National Seating.

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SHOCKLEY: That's what she was telling you, that she got calls from recipients and responses?

BARROW: No, she was telling me that there were, she knew that there were cases where the chairs had not been delivered to clients and even cases where they would order a chair for a client but let another client borrow the chair and use it for a period of time and then turn it back in and then they would get it to another recipient as a new chair.

SHOCKLEY: Uhmm.

BARROW: But I never saw anything that would, you know, show as documented proof.

SHOCKLEY: How well do you know Elizabeth?

BARROW: Hmm, not very well. Uhmm, we did discuss a lot of things over the phone because she would call me almost on a daily basis to get an extension request for a PA so she called me quite a bit and we did, you know, discuss other things other than business when she did call me we may talk about a concert that may have come to town or something like that.

SHOCKLEY: Did you go to concerts with her?

BARROW: No.

SHOCKLEY: No. Did you, let me ask you this, did you socialize with her at all or was it strictly professional?

BARROW: It was professional.

SHOCKLEY: Strictly professional, okay.

BARROW: Yeah.

SHOCKLEY: Okay, uh, I know that she was only employed there for 2-3 months....

BARROW: Uhmm.

SHOCKLEY: And u h, what she's done is look over a list of, of various recipients that we provided a list for, Mike Roeder did.

BARROW: Uhmm.

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SHOCKLEY: And she's checked off thirty something names of people who did not receive wheelchairs. Did she ever give you those names?

BARROW: No, she just told me to look out for certain requests. She didn't say anything about them. She just told me, you know, look out for this request and I think that what she was trying to get at was the fact that they had sent in a request for an extension on a delivery because they said that the client didn't come to clinic and they couldn't get up with the client's parents and they never showed up and all of this, so I was taking that as, okay, this is legitimate, you know, the client sometimes will miss clinic or they'll miss an appointment and I can understand their frustration and they need an extension so I would grant it, uh, but later found out from Elizabeth that these were not true reasons, you know, that they were providing me, uh, that they just held onto requests. They just sat on a desk and the client is in need of the equipment; however, they can't get it because National Seating has not either ordered it or they haven't sent it for whatever reason.

SHOCKLEY: Wouldn't it be in their best interest though to uh, cause that's their, that is their purpose for being in business, is to go ahead and order immediately and uh, supply and then bill for it because that's the only way they get paid is that correct?

BARROW: Yeah, uhmm.

SHOCKLEY: Did you ever get the feeling that Elizabeth may not have had as much information as what she was alleging to have.

BARROW: No, I never had any reason to doubt what she was saying and, and the reason I say that is because we ran into several problems with them recently, uh they had another staff turnover and when that new staff person came in it was everyday, asking for extensions on requests. They were telling parents that it's Medicaid's fault that you don't have what you need because they're sitting on your request. Parents would call us and when those parents started calling I would question the parents as to, you know, when did you first start this process? Uh, when, when did you go to uh clinic for your assessment? When did they tell you they submitted the PA request? And in every case, the parents were saying, you know, they're telling me that, you know, I can't get my equipment because it's outdated. The time limit has expired and you know, I explained to the parent every time we give

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them 60 days to dispense the equipment. Once it's approved, you have two months to get that equipment out, get it ordered and get it out to them, uh, the parents were being notified a week before an expiration date that we impose upon them. We give them 60 days and on that expiration date, we say if you don't have this equipment dispensed by this date, we're not going to pay you for it, uh, so the parents were getting a call a week before the expiration date to say, hey, you know we got this authorization from Medicaid, we need to get in here to clinic and sometimes it wasn't convenient for the parents to get in there within that week. If it expired they would tell the parents we can't give you the equipment so now my question to National Seating was, you need to dispense this equipment in order to get reimbursed for it, why don't you do that, uh, so I never knew what the problem was.

KEESHAN: Okay, uh, National Seating, they, these are specialized wheelchairs, right?

BARROW: Yes they are.

KEESHAN: Where the way the child has to sit in the chair or uses their arms, legs, what not so they don't custom make them on-site I don't think.

BARROW: No.

KEESHAN: But they order them.

BARROW: They have to order them.

KEESHAN: Is 60 days, and I'm just wondering how much of this might have run into the manufacturer of the special part...

BARROW: Uhmm.

KEESHAN: Would possibly outrun the 60 days verses how many of the incidences you think may be the result of the manufacturer and how many, uh, as a result of National Seating maybe not processing in time?

BARROW: Well, uh, every other vendor, we have several DME suppliers who deal with specialized medical equipment of high-end rehab and 60 days they are always able to make the 60 days. The only problems that we've had have come from National Seating. Now, we always let providers know even though our